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4.1.1 BLASTING

NOTE: Section 4.1.1 is reserved. Standards may be drafted as part of a later phase of the Land Development Code, if regulation in addition to existing State requirements is deemed necessary.

4.1.2 FACTORY BUILT HOUSING

Factory built housing may be placed on a lot zoned for residential use, in accordance with applicable zoning and form district requirements and provided that the standards of this section are met.

NOTE: Factory built housing includes manufactured homes and modular homes as defined in the 2002 Kentucky Residential Code.

- A. The following standards are applicable to all factory built housing:
1. The structure shall be permanently attached to a permanent foundation system and shall be anchored in accordance with the state standards set forth in KRS 227.570 through KRS 227.590.
 2. Exterior material shall be material customarily used on site-built dwellings, such as board siding, plywood or press wood siding, non-glossy vinyl siding, stucco, brick or non-reflective aluminum.
 3. Roofing material shall be of wood, tile or composition shingles, and must have an eave projection of no less than 6 inches.
 4. Exterior covering material extending from the roofline to the ground or to the top of the foundation shall be used. Masonry type skirting shall be constructed from the ground to the bottom of the exterior wall.
 5. Structural additions or alterations shall be subject to the same building code regulations as apply to additions or alterations to a conventionally built house. Any other alteration or conversion of a factory built house must be performed in accordance with KRS 227.550 et seq., 815 KAR 25:050, Section 2 and 42 USC Chapter 70.
 6. An adequate guttering and roof drainage system shall be installed.
- B. The following standards are applicable to all factory built housing to be placed on lots that qualify as infill sites in the form district regulation applicable to the site:

NOTE: *Infill development is defined in the Neighborhood and Traditional Neighborhood Form Districts:*

Infill in NFD: Where 50% or more of either the lots or street frontage (lineal distance) within 200 feet of the subject site and on the same side of the street are occupied by principal structures.

Infill in TNFD: Where 50% or more of either the lots or street frontage (linear distance) within the same block face are occupied by principal structures]

1. Roofed front porches must be included on each structure if more than 50% of the structures in the same block face or within 200 feet of the subject site, whichever is less, include them. Porches shall , equal the average size and must resemble the architectural style, roof pitch, foundation and façade material of porches existing within the block face. The Planning Director shall determine if the proposed porch design is sufficiently similar to those of adjacent residences.
2. Façade materials shall match in appearance¹ those of one of the adjacent residences (residential buildings on either side of the infill lot, or two nearest residences, if the adjacent structures are non-residential). The Planning Director may approve alternative materials, if the Director finds that the proposed design and façade materials are substantially in keeping with the existing character of the block face.
3. Front facing windows must have consistent size, spacing, and proportion to that of the adjacent residences (residential buildings on either side of the infill lot, or two nearest residences, if the adjacent structures are non-residential). The Planning Director may approve alternative window sizes and patterns, that the Director determines are in keeping with the existing character of the block face.
4. The first floor elevation of the proposed dwelling shall be no lower than the average floor elevations of the existing adjacent residential buildings (residential buildings on either side of the infill lot, or two nearest residences, if the adjacent structures are non-residential).
5. Minimum width of each unit's first story shall be at least equal to the average of the two nearest residential buildings in the same block face (residential buildings on either side of the infill lot, or two nearest residences, if the adjacent structures are non-residential).

¹ For example, an infill structure with four inch vinyl lapped siding may locate next to a home with wood lapped siding of similar dimension.

6. The roof of each infill unit shall have pitch at least as steep as the average of the roof pitch of the two nearest residential buildings in the same block face. The Planning Director may approve a lower roof pitch if the Director finds that the adjacent roof pitches are not representative of the block face in which the factory built home is to be located.
 7. Infill structures shall be consistent in number of stories with the pattern established by surrounding residences; if more than 50% of existing residences within the block face (TNFD) or 200 feet distance (NFD) are more than one story in height, the infill structure shall be a two-story structure. Where the established pattern is story and a half (e.g., "camelback structures"), infill housing may have a full or partial second story.
 8. HVAC units shall not be located between the front façade and the street.
 9. In Landmarks Districts, design review and approval by the Landmarks Commission shall substitute for the requirements established in paragraphs B.1 through 8, above.
 10. The Planning Director may approve proposed developments of five or more infill units that vary from the standards listed in this 4.1.3.B, if the Director finds that the units are compatible with the neighborhood in which they will be located.
- C. The following standards are applicable to all factory built housing to be placed on lots that do not qualify as infill sites in the form district regulation applicable to the site:
1. The roof shall be pitched at a minimum slope of 5:12.
 2. The minimum width of each structure's first floor shall be at least 20 feet. In the TNFD, 14 wide units are permissible, if the unit has a second story (full or partial) and has a main entrance facing the street.
 3. HVAC units shall not be located between the front façade and the street.
 4. Each residence must measure at least 900 square feet of floor area not including basement or garage space.
- D. The Planning Commission may approve factory built housing that does not conform to one or more of the standards listed in sub-sections 4.1.2.B or C, above, if the Commission finds that the proposed housing:
- is compatible with existing housing located within a one-eighth mile radius;
 - complies with applicable standards of the form district in which it is located; and conforms to applicable provisions of Cornerstone 2020.

4.1.3 LIGHTING**A. Purpose and Intent**

The purpose of this section is to appropriately regulate outdoor lighting in Louisville and Jefferson County to reduce the effects of light trespass and glare, provide clear guidelines for the installation of outdoor lighting to maintain and compliment the community's character, and to provide a safe nighttime environment for pedestrians, motorists, and properties. This regulation will implement the following Cornerstone 2020 Community Form Strategy Goals and Objectives: A3.1, A3.4, B2.6, C2.5, C4.6, D4.3, E2.4, E4.3, F4.4, G2.4, G4.3, H2.5, and H4.3.

It is the intent of this regulation to provide for the health, safety and welfare of the residents of Jefferson County by regulating the placement, hours of operation, orientation, distribution patterns, intensity, and fixture types of all outdoor lighting used for the illumination outside the public right-of-way while encouraging lighting that conserves energy, reduces light pollution, and enhances nighttime enjoyment of the property within the County, without decreasing safety, utility, security, and productivity.

The following definitions are not a part of this Chapter, but are included to allow for the review of this Part without referring to other portions of this Land Development Code.

Direct Light = light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Fixture = the assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Flood Light = a form of lighting fixture designed to direct the output of a contained lamp in a more-or-less specific direction, utilizing reflecting or refracting elements located external to the lamp.

Footcandle = the unit of illuminance on a surface one square foot in area on which there is a uniformly distributed flux of one lumen, or the illuminance produced on a surface all points of which are at a distance of one foot from a directionally uniform point source of one candela.

Fully-Shielded Light Fixture (also known as Full-cutoff) = a lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal and meets IESNA criteria for fully-shielded (or full-cutoff) fixtures. Any structural part of the light fixture controlling light emissions must be permanently affixed.

Glare = light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Height of Luminaire = the height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

Indirect Light = direct light that has been reflected or has scattered off of other surfaces.

Lamp = the component of a luminaire that produces the actual light.

Landscaping Lighting = type of outdoor lighting used to illuminate landscaping areas (flower beds, trees, vegetation) and other aesthetic features on a parcel (flag poles, etc.).

Light Trespass = the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen = a unit of luminous flux. One footcandle is one lumen per square foot. For the purposes of this Regulation, the lumen-output values shall be the INITIAL lumen output ratings of a lamp.

Luminaire = a complete lighting system, and includes a lamp or lamps and a fixture (*See Appendix 4A for examples of acceptable luminaires*).

Outdoor Lighting = the night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means. This includes luminaires used to illuminate advertising signs, landscaping, architectural features, walkways, driveways and parking areas.

Sag-lens or Drop-lens = a clear or prismatic refracting lens that extends below the lowest opaque portion of a light fixture.

Shielded (also known as cutoff) Light Fixture = a lighting fixture constructed in such a manner that no more than 2.5 percent of the lamp lumens, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, are not emitted above the horizontal plane through the lowest direct-light-emitting part of the luminaire.

Spotlight = a lighting assembly designed to direct the output of a contained lamp in a specific tightly focused direction (a beam) with a reflector located external to the lamp.

Temporary Outdoor Lighting = the specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than 15 days, with at least 180 days passing before being used again.

Uniformity Ratio = the relationship between the average level of illumination and the lowest level of illumination for a given area. For example, if the uniformity ratio is 3:1 and the average illumination of an area is 3.0 footcandles, then the lowest level of illumination allowed in the given area would be 1.0 footcandles.

B. Regulations

1. All public and private outdoor lighting shall be in conformance with the requirements established by this Regulation.
2. Control of Glare – Luminaire Design Factors
 - a. All luminaires shall be aimed, directed, or focused such as to not cause direct light from the luminaire to be directed toward residential uses or protected open spaces (i.e., conservation easements, greenways, parkways) on adjacent or nearby parcels, or to create glare perceptible to persons operating motor vehicles on public streets and right-of-way.
 - b. The following items shall apply to the mounting height of luminaires:
 - i. Within the Neighborhood or Village form district or within a form district transition zone related to a Neighborhood or Village form district, any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than thirty (30) feet unless otherwise approved by the Planning Commission.
 - ii. Within the Traditional Neighborhood, Traditional Workplace, or Traditional Marketplace Corridor form district or within a form district transition zone related to the Traditional Neighborhood, Traditional Workplace or Traditional Marketplace Corridor form district, any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than twenty (20) feet unless otherwise approved by the Planning Commission.
 - iii. Luminaires mounted on residential structures shall be exempt from items (i.) and (ii.) above.
 - c. Shielding
 - i. In the Neighborhood, Traditional Neighborhood or Village form districts, or within a form district transition zone related to the Neighborhood, Traditional Neighborhood or Village form districts, luminaires that emit more than 7,000 lumens shall be fully-shielded luminaires so that they do not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.

- ii. In all other form districts or form district transition zones, luminaires that emit more than 7,000 lumens shall be shielded luminaires so that they do not emit more than 2.5 percent of the lamp lumens above the horizontal plane through the lowest direct-light-emitting part of the luminaire.
- 3. Exceptions to Control of Glare
 - a. Street lights, including all lights installed by or funded by government agencies shall be exempt from the provisions of this section.
 - b. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires must meet all Federal design standards and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task. Strobe lights shall be permitted only if there is no other federally approved hazard warning illumination technique.
 - c. Luminaires used primarily for sign illumination shall not extend more than one foot above the sign which they are lighting.
 - d. Decorative luminaires installed in public parks shall be shielded so as to not cause direct light from the luminaire to affect residential uses or to create glare perceptible to persons operating motor vehicles on public streets, however these luminaires are not subject to the shielding requirements of paragraph 2.c, above.
 - e. Law Governing Conflicts. Where any provision of federal, state, county, or city statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.
- 4. Freestanding Business Signs
 - a. Lighting fixtures used to illuminate a freestanding business sign shall be mounted on the top of the sign structure and directed towards the ground. Freestanding business signs with bottom-mounted lighting shall only be used if the fixtures are pointed directly at the sign.
 - b. Freestanding business signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding.
- 5. Canopy, Pavilion, or Drive-Through Bays Lighting
 - a. All luminaires mounted on or recessed into the lower surface of canopies, pavilions, or drive-through bays shall be fully shielded and utilize flat lenses.

- b. The following maximum illumination levels shall apply to canopy, pavilion or drive-through bay lighting:
 - i. The level of lighting shall not exceed 50 footcandles at any point beneath a canopy, pavilion, or drive-through bay located in the Neighborhood, Traditional Neighborhood, Traditional Workplace, Traditional Marketplace Corridor and Village form districts.
 - ii. In all other form districts, the level of lighting shall not exceed 70 footcandles at any point beneath a canopy, pavilion, or drive-through bay.
 - c. In all form districts, all canopy, pavilion, or drive-through bay lighting shall maintain a uniformity ratio of 4:1.
6. Recreational Facilities
- a. Any light source permitted by this Code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or equestrian arenas, provided all of the following conditions are met:
 - i. All fixtures used for recreational facilities lighting within 500 feet of any residential use shall be fully shielded, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare.
 - ii. Illumination of any playing field, court, or track located within 500 feet of any residential use shall be permitted after 11:00 p.m. only to conclude an event normally expected to end before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.
 - c. Recreational facilities shall be required to submit a lighting plan for review and approval by the Planning Commission.

The plan shall document the effect of lighting on adjacent residential areas. The Planning Commission may require modification of the lighting plan or impose conditions on its approval as necessary to mitigate the impacts of the lighting.

7. Pedestrian Areas
- a. Pedestrian facilities (sidewalks, paths, etc.) leading from a building to parking facilities shall not exceed an average lighting level of 2.5 footcandles.
 - b. Luminaires used only to illuminate pedestrian facilities shall not be mounted higher than 15 feet from the finished grade of the walking surface.

8. Temporary Lighting

Temporary lighting shall be permitted in accordance with the following guidelines:

- a. The purpose for which the lighting is proposed is not intended to extend beyond fifteen (15) days.
- b. The proposed lighting is designed in such a manner as to minimize light pollution and light trespass.
- c. The proposed lighting will comply with the general intent of this regulation.
- d. The permit will be in the public's best interest.

9. Prohibitions*

- a. The use of search lights except by civil authorities is prohibited.
- b. Fixtures with drop or sag lens lighting are prohibited.

Note: This does not prohibit the use of holiday lighting.

Flashing and strobe lights employed to draw attention to business establishments, special events, etc. are prohibited. Please see Section 4.3.2 C.1 for information regarding federal hazard warning luminaries.

10. Architectural Lighting

- a. Architectural lighting used to illuminate building facades, walls, landscaping, flags, fountains, statues, or other architectural or design items shall be carefully located and aimed so that light is directed only onto the surface of the building façade, wall, landscaping, flag, fountain, statue or other architectural or design item it is intended to light.
- b. Architectural lighting used to illuminate building facades, walls, landscaping, flags, fountains, statues, or other architectural or design items shall not create glare for traffic on streets or roads.

11. Light Trespass

- a. The following provisions shall apply to light trespass:

- i. The level of lighting resultant from luminaires installed on a subject site shall not exceed one-half (0.5) footcandles at any property border adjoining a low- to medium-density residentially zoned or used² property border, and 1.0 footcandles on any high-density residentially zoned or used³ property border, or public right of way parcel of land.
 - ii. If the ambient level of lighting at any property border exceeds one-half (0.5) footcandles prior to the development of the subject site, then the level of lighting resultant from luminaires installed on that site shall not increase the ambient level of lighting at any property border by more than one-half (0.5) footcandles.
- b. In all zoning and form districts, any lighting shall be arranged so as not to shine directly on an adjoining property.

C. Permit Required

1. Whenever a person is required to obtain a building or electrical permit, a Conditional Use Permit, or any development plan approval by the County, the applicant shall, as a part of said application, submit sufficient information to enable the permit issuing agency to determine whether the proposed lighting will comply with this Regulation.

D. Enforcement and Penalty

1. The following standards shall be used when measuring and inspecting outdoor lighting complaints:
 - a. When inspecting light fixtures the inspector shall do a visual evaluation to determine whether the fixture meets the requirements established in this Regulation.
 - b. When inspecting light trespass complaints, the inspector shall use an approved instrument to take a footcandle reading to determine whether the light brightness exceeds the standards set in this regulation. The inspector shall stand at the property line (as mapped on PVA maps) and hold the detector approximately three (3) feet off the ground. The inspector shall take measurements on the horizontal plane to assure proper measurement of light at the property line. The average of the vertical and horizontal measurements shall be used to determine compliance with applicable standards.

² "Low- to medium-density residentially zoned" parcels include R-R, R-E, R-1, R-2, R-3, R-4, R-5, PRD, PVD R-5A, and R-5B.

³ "High-density residentially zoned" parcels include TNZD, U-N, R-6, R-7, and R-8A.

E. Severability

1. Should any section, clause or paragraph of this regulation be declared by court of competent jurisdiction to be invalid, the same will not affect the validity of the regulation as a whole or part hereof other than the part declared to be invalid.

F. Effective Date

1. This regulation shall take effect from and after its passage, approval and publication according to law.
2. Amortization/Alternative Provisions (Reserved)

G. Installation

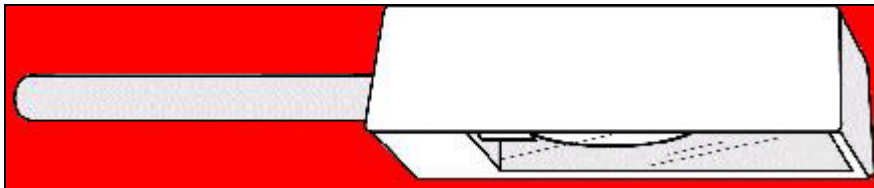
1. The owner or contractor of record shall install the approved outdoor lighting fixtures in conformance to the listing, manufacturer's specifications, and all applicable local building and electrical codes. An electrical permit and inspection by the permit-issuing agency is required.

H. Modifications, Waiver or Variation

Waivers may be granted in accordance with Chapter 11 Part 8.

I. Illustrations

Example of a fully-shielded or full-cutoff light.



4.1.4 Noise

NOTE: Section 4.1.4 is reserved. Noise standards may be drafted as part of a later phase of the Land Development Code, if regulation in addition to the existing noise ordinance is deemed necessary.

4.1.5 Odor

Refer to applicable regulations administered by the Air Pollution Control District.

4.1.6 Operating Hours

The following operating hour restrictions shall apply to all uses that are within 100 feet of any property that is zoned residential, any solely residential use or any mixed use development that contains residential uses on the ground floor as measured from the closest property line of the proposed use.

- A. Collection of Garbage and Recyclables - No garbage or recyclables collection services shall be conducted between the hours of 10:00 p.m. and 7:00 a.m.
- B. Loading Operations - No loading or unloading operations shall be conducted between the hours of 10:00 p.m. and 7:00 a.m. This restriction shall also be applicable to the idling of any heavy or medium trucks on the site for the purpose of conducting loading or unloading operations regardless of whether said activities have already occurred or are scheduled to occur in the future.

4.2.1 Intent and Applicability¹

Certain land uses due to their extent, nature of operation, limited application, or relationship to natural resources are considered as exceptional cases. The uses listed in this Part may be permitted in certain districts by Conditional Use Permit following a public hearing before the Board of Zoning Adjustment provided such uses will not have an adverse effect on neighboring property, are not in conflict with the goals and plan elements of the Comprehensive Plan, the proposed uses are essential to or will promote the public health, safety, and the general welfare in one or more zones, and are in compliance with the listed standards and requirements.

The following uses are subject to the Conditional Use Permit process:

Section	Conditional Use
4.2.3	Accessory Apartments
4.2.4	Airports, Heliports and Other Aviation Uses
4.2.5	All-Terrain Vehicle (ATV) Courses
4.2.6	Amusement Parks, Circuses and Carnival Grounds
4.2.7	Animal Race Tracks
4.2.8	Athletic Facilities
4.2.9	Bed and Breakfast Inns
4.2.10	Boarding Homes
4.2.11	Camping Areas and Recreational Vehicle Parks, Public and Private
4.2.12	Cemeteries, Mausoleums and Crematories
4.2.13	Commercial Animal Feeding Yards
4.2.14	Commercial Communication Towers
4.2.15	Commercial Greenhouses
4.2.16	Commercial Kennels
4.2.17	Commercial Lakes
4.2.18	Day Care Facilities (providing care for 8 or more persons)
4.2.19	Doctor, Dentist or Chiropractor
4.2.20	Drive-In Theaters
4.2.21	Earth Excavation, Filling and Refuse Disposal Operations, Major
4.2.22	Earth Excavations/Fill, Minor
4.2.23	Electric Power or Steam Generating Plants
4.2.24	Extraction and Development of Oil, Gas, and other Hydrocarbon Substances
4.2.25	Funeral Homes
4.2.26	Golf Driving Ranges, Miniature Golf Courses, and Privately Owned Golf Courses Operated for a Commercial Purpose

¹ See Appendix 1C for changes to this part in effect within the City of Middletown.

Section	Conditional Use
4.2.27	Home Occupations
4.2.28	Hospitals, Clinics, and other Medical Facilities
4.2.29	Institutions
4.2.30	Mobile Homes and Manufactured Housing Sales, Display or Storage
4.2.31	Marinas and Boat Rental Facilities
4.2.32	Marinas and Boat Rental Facilities, Commercial
4.2.33	Mini-warehouses
4.2.34	Mobile Home Parks
4.2.35	Multi-Family Dwellings
4.2.36	Nursing Homes and Homes for the Infirm or Aged
4.2.37	Off-Street Parking Areas
4.2.38	Outdoor Paint Ball Ranges
4.2.39	Potentially Hazardous or Nuisance Uses
4.2.40	Private Non-profit Clubs
4.2.41	Private Proprietary Clubs
4.2.42	Ranges for Shotgun, Rifle, Pistol, Air Rifle, Air Pistol or Other Firearms
4.2.43	Riding Academies and Stables
4.2.44	Scrap Metal Processing Facilities and Junkyards
4.2.45	Sewage Disposal Plants
4.2.46	Solid Waste Management Facilities
4.2.47	Sports Arenas
4.2.48	Storage Yards
4.2.49	Underground Space
4.2.50	Zoos

4.2.2 General Provisions

All Conditional Uses shall meet the following standards in addition to requirements listed for each section:

- A. Additional Requirements - Where the Board finds that the conditions or circumstances relating to a particular application warrant more requirements in addition to those listed in connection with the particular use applied for, the Board may attach additional conditions; refer to **11.5.A.**
- B. Relief From Listed Requirements - The Board may decrease or waive listed requirements, either permanently or on a temporary basis; refer to **11.5.A.**
- C. Compliance With Listed Requirements and Attached Conditions - The Board shall have the power to revoke Conditional Use Permits for noncompliance with listed requirements or attached conditions. Furthermore, the Board shall have a right of action to compel the

removal of offending structures or uses at the cost of the violator and may have judgment in personam for such cost.

- D. Drives and Parking Areas - All drives and parking areas (except landscaping areas) shall be surfaced with a hard and durable material and properly drained. Gravel drives and parking areas, as well as drives and parking areas constructed with semi-pervious materials approved by the Board, may be permitted.
- E. Compatibility - Conditional Uses shall comply with all applicable standards of the Land Development Code, including the form district regulations, form district transition standards, and landscaping. Additional standards may be included in the listed requirements for a particular use.
- F. Off-Street Parking Requirements - Off-street parking spaces shall be provided in accordance with Chapter 9, Parking Regulations unless otherwise listed. The Board may establish additional parking requirements
- G. Lighting Requirements – Outdoor lighting shall conform to the design, light glare, and light trespass standards as stated in Chapter 4 Part 1, Outdoor Lighting Regulations.
- H. Setbacks and Required Yards - All buildings, structures and facilities, whether permanent or temporary shall observe setbacks and yards in accordance with the appropriate Form District standards. Additional standards may be included in the listed requirements for that use.
- I. Request For A Conditional Use Permit - Application Procedures for Conditional Uses are listed in Chapter 11, Development Review Procedures; of the Land Development Code. Additional requirements for applications may be included in the listed requirements for that use.
- J. The Board of Zoning Adjustment shall have jurisdiction to waive any of the General Provisions and shall have jurisdiction to determine the scope, intensity, and activities included on a property.
- K. Conditional uses are allowed in certain zoning districts. Zoning districts that contain permitted uses from other zoning districts do not allow the same conditional uses (e.g. C-2 zoning district conditional uses are only applicable in the C-2 zoning district, not within the C-M or EZ-1 zoning district). Always check the conditional use list in Chapter 4 Part 2 to determine whether the particular zoning district allows that conditional use.
- L. Before the Board shall release any bond or other assurances given by the applicant for a conditional use permit as provided in this section, the applicant shall file with the Board the following:
 - 1. Sworn statement of the holder of the conditional use permit that all the requirements, conditions, and assurances which were included in the application have been met.

2. If the approval of a conditional use permit included or referred to any surveys, drawings, plans, or specifications which showed the existing, proposed, and ultimate development of the conditional use, the applicant shall file with the Board a written opinion, certified by a professional engineer registered in Kentucky, that all work, improvements and developments have been constructed or installed in conformity with the plans filed with the conditional use application. Copies of this information shall be forwarded to the Director of Public Works for his/her review and recommendation to the Board. In case of a conditional use permit allowing excavation and filling operations, there shall be filed with the Board a survey, certified by a professional engineer registered in Kentucky, showing the finished surface and indications showing the layer of clean earth which was installed and compacted over the fill when the surface was brought to finished grade, in conformance with the approved plan. The indications shall be based on test hole borings taken no farther than 100 feet apart, starting no more than five feet inside and along the edges or boundaries of the fill.
3. A letter of recommendation to the Board from the Director of Works that all work, improvements or development are in conformity with his/her requirements, including a statement that he/she has reviewed the opinion of the engineer.

4.2.3 Accessory Apartments

Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements.

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises.
- B. The accessory apartment shall be no greater than 650 sq ft or 30% of the floor area of the principal residence, whichever is greater.
- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate.
- D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:

1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
2. Traditional Neighborhood - at least one off-street space provided on the lot; and
3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate.

4.2.4 Airports, Heliports and Other Aviation Uses

Airports, Heliports and Other Aviation Uses may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Landing Areas - Landing areas shall be set back at least 50 feet from any property line.
- B. Application - Applications for landing areas shall be sealed by a registered engineer, architect or surveyor depicting pertinent setback and spacing requirements and all associated approach/departure flight paths.
- C. Evidence of Air Rights - Evidence shall be furnished to the Board of the acquisition of property or air rights over all land at the ends of all runways where the required glide path of aircraft, for the class of the airport, is 35 feet or less elevation from the ground.
- D. All buildings and structures shall be at least 30 feet from any property line.
- E. Permitted Hours of Operation – The Board shall determine hours of operation for aviation uses that may impact residential and other noise sensitive uses.
- F. Parking – A minimum of one off-street parking space for each 100 square feet of waiting room space shall be provided. Where no waiting room is provided, two spaces for each craft staging or tie down pad or area shall be provided. The Board of Zoning Adjustment may waive the need for parking areas under appropriate conditions.
- G. Lighting – Strobe lights shall be used only if no alternative lighting is permitted by federal regulation.

4.2.5 All Terrain Vehicle (ATV) Courses

All Terrain Vehicle (ATV) Courses may be allowed in the R-R, R-1, C-2 and C-M Districts upon the granting of the Conditional Use Permit and compliance with the listed requirements:

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. A buffer strip shall surround the ATV course on all sides, with a minimum dimension of 50 feet. Fencing or other means to exclude vehicles from the buffer area shall be installed.
- C. A noise impact study shall be prepared by an individual or firm with expertise and experience in the field of traffic noise demonstrating that noise levels at any perimeter of the site adjoining residentially zoned property do not exceed 50 dB(A).
- D. An erosion and sedimentation control plan shall be prepared and approved by the Jefferson County Conservation District and MSD.
- E. A tree preservation/landscaping plan shall be prepared, showing trees to be preserved in the buffer area and elsewhere on site as needed to preserve trees and to promote soil stability. The plan shall also show additional landscaping as needed to create a visual screen of the property from adjacent residentially zoned land.
- F. One non-illuminated identification sign not to exceed 30 square feet in area and 10 feet in height may be provided at the main entrance.

4.2.6 Amusement Parks, Circuses and Carnival Grounds

Amusement Parks, Circuses and Carnival Grounds may be allowed in the R-1, C-2, C-M, M-1, M-2, M-3 and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Signs - Except in districts where signs are allowed, one illuminated sign, not to exceed 100 square feet in area and not to exceed 10 feet in height may be erected at each major entrance.
- B. Fences – A continuous fence, with a minimum height of 6 feet, shall be erected around the premises with openings only for ingress and egress into a public way.
- C. All buildings and structures shall be located at least 50 feet from any property line.

4.2.7 Animal Race Tracks

Animal Race Tracks may be allowed in the R-1, C-2, and C-M Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Setbacks - All buildings, structures, facilities, or storage areas shall be at least 100 feet from any property lines.

- B. Except in districts where signs are allowed, one sign, not to exceed 100 square feet in area and not to exceed 10 feet in height, may be located at each of the major entrances.
- C. Animal race tracks located within one-half mile of residentially used or zoned property shall provide information on sound levels resulting from loudspeakers and hours of operation. The Board may establish conditions necessary to protect nearby residents.

4.2.8 Athletic Facilities

Indoor and outdoor athletic facilities, including sports fields, basketball and tennis courts, and related facilities such as equipment storage facilities, spectator seating, refreshment stands, restrooms, locker rooms and parking except for paint ball ranges are permitted in the M-1, M-2, and M-3 districts provided that the following standards are met:

- A. The athletic facilities are located in a suburban form district; and
- B. Pedestrian and vehicular circulation patterns, including location of parking lots and driveways, must be designed to safely accommodate recreational users and avoid conflict with truck traffic, as determined by the Director of Works ; and
- C. If recreational uses are located within 500 feet of residential use or zone, the applicant shall submit a lighting plan documenting compliance with Section 4.1.3 (Lighting ordinance); and
- D. Athletic facilities in the M-1, M-2 and M-3 districts subject to special standards may serve three purposes:
 - 1. To allow a transitional use of industrially zoned land, while preserving the community's supply of industrially zoned property until such time as market demand justifies use of such property in a manner that will significantly meet the community's economic development needs; or
 - 2. To allow use of parcels for permanent open space or recreational purposes serving employees of an industrial development; or
 - 3. To accommodate greenways or similar open space use of environmentally constrained land, with or without trail systems or other recreational facilities.

Thus, athletic facilities are permitted only when the applicant indicates which of the three purposes the proposed use will meet, and can demonstrate the following to the satisfaction of the Board of Zoning Adjustment or the Board's designee:

If Transitional Use: The proposed athletic facilities do not entail construction of permanent facilities that are inconsistent with industrial use of the site.

If Permanent Open Space/Recreation Use: The site is an integral component of a multi-lot business or industrial park, and the recreation facilities primarily benefit persons working at the industrial park.

If Greenway or Environmentally Constrained: The site is subject to environmental constraints regulated in Chapter 4 Parts 6, 7, or 8, and is precluded from development by conservation easement or restriction on the development plan.

4.2.9 Bed and Breakfast Inns

Bed and Breakfast Inns may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, and R-6 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Number of guest rooms permitted:
 - 1. R-R, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, and R-5B – limited to 4.
 - 2. All other districts where permitted – maximum of 8.
- B. Guests are limited to a length of stay no more than 7 consecutive days. The resident owner shall keep a current guest register including names, permanent addresses, dates of occupancy, and motor vehicle license number of all guests.
- C. Bed and Breakfasts may provide food service or space for gatherings such as meetings, receptions, or other social events only to overnight guests. No food preparation will be allowed in any guest bedroom.
- D. Any signage which identifies the use shall be in accordance with the underlying zoning and form district standards.
- E. The location of parking shall comply with the same parking standards as a single family detached dwelling unit, except any additional parking beyond what can be accommodated in a driveway no wider than to sufficiently park two (2) cars must be out of the required setback and yards as specified in the underlying Form District requirements. Parking for guests shall not be served by a separate driveway from that serving the principal residential structure.

NOTE: Owners are required to reside in the primary structure on the premises; see Definitions (Chapter 1 Part 2).

4.2.10 Boarding Homes

Boarding Homes may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and R-6 districts upon the granting of a Conditional Use Permit and compliance with the following requirements.

- A. Boarding Homes located in R-E, R-R, R-1, R-2, R-3, R-4 and R-5 single-family districts shall have a maximum of 3 boarders in addition to resident family members of the boarding house keeper. Those Boarding Homes located in other districts shall have a maximum of 8 boarders.
- B. All boarding homes shall comply with the administrative and maintenance requirements established in 902 KAR 20:350.
- C. Boarding Homes shall not have any signage which identifies the use.

4.2.11 Camping Areas and Recreational Vehicles Parks, Public and Private

Camping Areas and Recreational Vehicles Parks, Public and Private may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Buffer Strips - An open space buffer strip shall be maintained along all property lines in which campfires, or any other camping appurtenances shall not be located. The open space buffer strip shall be a minimum of 10 feet along any side or rear property line and a minimum of 30 feet along any front or street side property line.
- B. Signs - Except in districts where signs are allowed, there shall be no more than one non-illuminated sign not to exceed 30 square feet in area, with a maximum height of 10 feet, located at the major entrances.
- C. Traffic Impacts - Facilities shall be located and designed so that no entrance or exit shall require movement of traffic to or from the camping area or park through a recorded single-family subdivision.
- D. Limits on Periods of Use - No property, camp, or individual camp site shall be sold or leased for a longer period than one month, that does not conform to the minimum lot area established for the district in which it is located or to a minimum lot area of 6,000 square feet for a district having no minimum lot area.
- E. Trash and Garbage Collection - The RV Park or Camping Area Management shall be responsible for internal trash and garbage collection. Central trash collection points shall be completely screened from view from outside the park.
- F. Health and Safety - Parking pads for recreational vehicles and individual camp sites shall not be exposed to conditions that create hazards to the property or the health or safety of the occupants. No portion of the park or camping area subject to flooding or subsidence shall be used for any purpose which would expose persons or property to hazards.
- G. Vehicular Use Areas - Vehicular use areas shall be paved and shall be clearly marked as to internal circulation and direction of travel. Pavement widths for travel lanes shall be as follows:

1. One-way Travel Lane - 18 Feet
2. Two-way Travel Lane - 24 Feet
3. Cul-de-sac Diameter - 80 Feet

4.2.12 Cemeteries, Mausoleums, and Crematories

Cemeteries, Mausoleums, and Crematories may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Fences - A fence, with a minimum height of 6 feet, shall be erected around the premises with openings only for ingress and egress to a public way.
- B. Required Yards - No required yard shall be occupied by graves. There shall be a 30 foot landscaped or open space buffer between the property line and any building, structure, or gravesite. No gravesites shall be placed closer than 30 feet from any property line and at least 30 feet from the right-of-way line for existing and planned public streets. This shall not apply to roads designed for internal circulation within the cemetery, mausoleum or crematory property.
- C. All roads used solely for internal circulation shall have a minimum pavement width of 16 feet and a minimum shoulder width of 6 feet on each side of the pavement. Roads providing access to chapels or offices shall have minimum pavement width of 18 feet.

4.2.13 Commercial Animal Feeding Yards (including hogs, chickens, and other animals as determined by the Board of Zoning Adjustment) *(Not in effect within the City of Jeffersontown, see appendix 1B for details)*

Commercial Animal Feeding Yards may be allowed in M-2 and M-3 Zoning Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings, structures, pens, and yards shall be at least 100 feet from all property lines.
- B. Adequate water supply shall be available to maintain the premises in a sanitary condition.
- C. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal wastes.

4.2.14 Commercial Communication Towers (including radio and television towers)

Commercial Communication Towers may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. The property shall be landscaped to blend with the character of the area.
- C. No signs except those signs showing the address and/or emergency contact information shall be allowed on the property.
- D. When a tower is higher than the distance from its base to the nearest property line, there shall be a certification from a registered engineer that the tower will withstand winds of 100 miles per hour.
- E. Strobe lights are prohibited unless they are the only marking technique that satisfies federal regulations.

4.2.15 Commercial Greenhouses/Plant Nurseries

Commercial Greenhouses/Plant Nurseries may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, OR-1, OR-2, OR-3 and OTF Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Buffers and Screening - Greenhouses and other structures shall be buffered and screened in accordance with standards for commercial uses in Chapter 10, Landscaping, Screening, and Open Space. Parking lots shall be screened from adjacent properties in accordance with the provisions of the Development Code.
- B. Setbacks – All buildings and structures shall be at least 50 feet from the front property line and a minimum of 20 feet from any other property line.
- C. Freestanding Signs - Only one freestanding sign shall be permitted. The freestanding sign shall not exceed 32 square feet in area per side and shall not exceed a height of 6 feet. The maximum height shall include any berm, landscape mound, or other manmade alteration above the surrounding ground level.
- D. Attached Signs – Only one attached sign shall be permitted. The one attached sign permitted shall be attached to the primary building only and no attached sign shall be permitted on any other buildings on the site. The attached sign shall not exceed 20 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building.

- E. Outdoor Display and Storage - No plant material offered for sale shall be permitted in any required front, street side or side yard.
- F. Sale of other plant or landscape-related materials, including but not limited to fertilizer, mulch, flower pots, and landscape timbers, is permissible only if sale of such items is clearly accessory to the growing and sale of plant material.

4.2.16 Commercial Kennels

Commercial Kennels may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, C-1, C-2, C-M, M-1, M-2, and M-3 Zoning Districts where such use is compatible with surrounding land uses upon the granting of a Conditional Use Permit when developed in compliance with the listed requirements.

- A. Facilities Enclosed - All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby.
- B. Signs - Except in districts where signs are allowed, there shall be no more than one non-illuminated sign not to exceed 12 square feet in area and not to exceed 6 feet in height.
- C. Fences - A continuous fence at least 6 feet high shall be erected around the portion of the site used for the kennel operation.
- D. Screening – Any outdoor animal facilities shall be screened from view.
- E. Noise - The design of the structures shall include features that acoustically shield any animal noises from surrounding property.
- F. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal wastes.

4.2.17 Commercial Lakes

Commercial Lakes may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. Signs - Except in districts where signs are allowed there shall be no more than one non-illuminated sign not to exceed 12 square feet in area, nor exceed a maximum height of 6 feet, at the major entrances.
- C. Construction Standards - The construction of the lake shall conform to the requirements as set forth under excavation and filling operations.
- D. Off-street parking spaces shall be provided in the ratio of one space for every 100 feet of lakeshore, with a minimum of 10 spaces.

4.2.18 Day Care Facilities (providing care for 8 or more children)

Day Care Facilities may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, and R-7 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements.

- A. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
- B. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).
- C. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
- D. On-Site Drop-off and Pick-up Area - An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the appropriate agency responsible for traffic engineering.
- E. Parking Spaces - The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be determined by the Board of Zoning Adjustment, and may thereafter be modified by the Board of Zoning Adjustment by petition from the owner of the premises granted a Conditional Use Permit or upon recommendation from the zoning inspector or other authorized personnel after an annual inspection of the premises or other such inspection. The parking layout must be approved by the appropriate agency responsible for traffic engineering.
- F. Drainage Control - The development plan shall have the approval of the appropriate agency responsible for surface drainage control.
- G. All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.
- H. Fence - A fence with a minimum height of 4 feet shall be erected around the outdoor play area.

4.2.19 Doctor, Dentist or Chiropractor Office

One office for one medical doctor, dentist or chiropractor may be allowed on a lot in the R-4, R-5, R-5A, R-5B, R-6, and R-7 districts where the premises abuts a major or minor arterial designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements

- A. Floor Area - The maximum floor area for the office use is 800 square feet.
- B. Parking Areas - parking spaces shall be provided off of the street in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building. Said parking area must be paved by asphalt or concrete and shall be screened by a dense evergreen shrub screen with a minimum height of five feet, or a wall constructed of brick, stone or wood with a minimum height of five feet.
- C. Signs - There shall be allowed one non-illuminated identification sign indicating the name and occupation, which sign shall be limited in size to four square feet and placed on the building.
- D. Exterior Design - The building shall remain or shall be constructed so that the exterior design and ornamentation is of residential character in keeping with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).

4.2.20 Drive-In Theaters

Drive-In Theaters may be allowed in the R-R, R-1, C-2, and C-M Districts upon the granting of a conditional use permit and compliance with the listed requirements.

- A. Approval of plan of access to the highway from the agency responsible for maintenance of such highway shall be obtained.
- B. There shall be no direct access to a major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, where there is a possibility of access to a lesser road.
- C. All buildings and structures except fencing shall be at least 100 feet from any property line.
- D. Provisions shall be made for temporary stoppage of vehicles on the premises of at least 30 percent of the capacity of the theater, to prevent traffic congestion on adjacent public ways.
- E. The picture screen shall not face or be placed to be viewed from any major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, and shall be screened from view by trees or fences from any adjacent road.

- F. Drive-in Theaters located within one-half mile of residentially used or zoned property shall provide information on sound levels resulting from loudspeakers and hours of operation. The Board may establish conditions necessary to protect nearby residents.
- G. The entrances and exits shall be located so as to afford unobstructed sight distance for 300 feet in each direction along the highway.
- H. Except in districts where signs are allowed, no sign shall exceed one square foot in area for each foot of frontage on the highway, but in no case shall exceed 200 square feet in area and no sign shall exceed 10 feet in height. In no case shall signs which face a residential district be of the flashing type.

4.2.21 Earth Excavation, Filling, and Refuse Disposal Operations, Major

Excavation, Filling, and Refuse Disposal Operations, Major may be allowed in R-R, R-1, M-2 and M-3 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Defined - Any operation which involves a change in the existing ground surface, except (1) grading and shaping of land around a building or structure and except (2) minor earth excavations not constituting a quarry, borrow pit, or commercial operation and/or filling of land with non-combustible, inorganic materials (See Section 04-02-21) shall be subject to the following regulations. Such uses include but are not limited to the following:
 - 1. Extraction and development of earth products, mineral and other natural resources, including sand, gravel pits, quarries, and borrow pits.
 - 2. Landfills for non-combustible materials.
 - 3. Incinerators, public/private.
 - 4. Any other landfills (except for hazardous material).
 - 5. Commercial composting.
- B. Other Standards - The proposed operation shall meet all requirements of the adopted Environmental Performance Standards.
- C. Neighborhood Protection - The operation shall be conducted in such a manner as to offer protection to the neighborhood against possible detrimental effects, taking into consideration the physical relationship to surrounding properties and access to the site including any nearby local (residential) streets
- D. Information to be Filed:

1. Drawings - A plan drawn at a scale of not less than 100 feet to the inch showing the following:
 - a. Boundaries - The exact boundaries of the site and access to public ways.
 - b. Use of Land - Present and proposed use of land, the arrangement, fully dimensioned, of all existing and proposed buildings, structures, roads, drives, parking areas, loading spaces, water, sewer, power, and other utility lines, sanitary facilities, surface drainage, landscaping, fencing, and all other features and facilities to be installed or used in connection with the proposed operation.
 - c. Contours - Show by contours of not less than 2 foot intervals (except on extremely steep slopes):
 - i. The present surface of the site and the surrounding properties within 50 feet from its boundaries by the use of dashed contours.
 - ii. The ultimate depth elevations of the area to be excavated or filled by the use of dot and dash contours.
 - iii. The ultimate finished surface of the site after all excavation and filling operations are completed by the use of solid line contours.
 - iv. If the ultimate finished surface elevation is exactly the same as the ultimate depth elevation, solid line contours alone may be used, but must be so labeled in the plan legend.
 - d. Excavation Methods - Cross sections at critical points to illustrate the methods to be employed in the process of excavation and fill.
 - e. Sequence of Operations - Locations where excavation and filling operations will commence and the procedural sequence of operations.
 - f. Surface Drainage - Methods to be employed for the management of quantity and quality of surface drainage during and after completion of operations.
 - g. Volumes - The volumes of materials to be excavated and filled for each location on the site where operations are to take place.
 - h. Off-Site Improvements - Improvements such as new roads and pavement to be installed off the site to enable the operation to be carried out.

- i. Adjoining Property Owners - The plan shall show the names and addresses of the owners of the site and all adjoining properties, the name and address of the engineer who prepared the plan, scale, northpoint, the geographical relationship of the site to existing public ways and major or minor arterials as designated in the Comprehensive Plan for all of Jefferson County, Kentucky.

E. General Standards:

1. No excavation nor filling shall be made within 50 feet of any boundary of the site.
2. Side slopes of excavation and fills in earth, sand or gravel shall not exceed one foot vertical to two feet horizontal and shall be blended into undisturbed existing surfaces.
3. A continuous fence a minimum of 6 feet high shall be placed along the boundaries of excavated areas and provided with gates of the same construction as the fence which shall remain locked at all times when active operations are not taking place and shall be properly maintained until all operations are completed.
4. Additional landscaping is required in the buffer areas between excavation and fill areas and buildings and structures.
5. Provisions shall be made for the disposal of surface water falling on or crossing the site at all times during and after completion of the operations. The operations shall not obstruct the normal flow of any public drain, or abrogate the riparian rights of any other party to a stream or drain. No operation shall begin until construction approval has been approved from the agency responsible for surface water drainage.
6. The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply, quality, or purity of ground water or wells. In no case shall an excavation be carried to a depth below an elevation of 410 feet above mean sea level.
7. A layer of clean earth at least two feet thick shall be deposited and thoroughly compacted over all fill to bring the surface to the finished surface grade as shown on the topographic plan filed with the application.
8. The finished surface of the site shall bear the proper relationship to that of adjoining properties.
9. The installation of roads, parking areas, buildings, structures, and operational facilities and equipment shall be located on the site so that adjoining properties will not be adversely affected.

10. Excavation and fill materials shall be moved off and onto the site in vehicles approved by the appropriate Director of Works.
11. All filling operations and final approval shall be in strict conformity with the regulations of the Louisville and Jefferson County Board of Health; Air Pollution Control District; Kentucky Department for Environmental Protection and the appropriate Director of Works. Letters or Certificates of Approval of the plans by the above agencies indicating prior review shall be filed prior to the issuance of any Conditional Use Permit. Uses shall not begin until final approval has been obtained and filed in the Board of Zoning Adjustment docket file.
12. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or light to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or other method that meets current state standards. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished.
13. In no event will the premises be used for salvage operations of any kind. No separation or picking of waste materials will be permitted. All unacceptable fill materials as noted elsewhere in this section shall be removed from the premises immediately after delivery.
14. Except for protective fences, no building or structure erected in connection with the operation shall be located in any required yard or closer than 30 feet from any property line.
15. A specific written or site plan for vehicle cleaning facilities to prevent the tracking of mud, dirt or other debris onto any public roadway shall be reviewed and approved by the appropriate Director of Works before public hearing.
16. No materials defined as hazardous by these regulations, by the Kentucky Cabinet for Natural Resources and Environmental Protection or Federal Environmental Protection Agency will be allowed as fill.

F. Standards for Specific Operations:

1. In addition to the general standards listed above, the following additional standards shall apply to:
 - a. Land-fills for non-combustible material:

- i. Fill material shall be limited to inorganic materials and other substances not subject to decomposition, combustion, or the production of odors.
 - ii. Materials shall be spread and thoroughly compacted as they are deposited.
- b. Incinerators, public and private:
 - i. No incinerator building or structure shall be located closer than 200 feet from any site boundary line, and no other building or structure used in connection with the operation shall be located closer than 30 feet from any site boundary line.
 - ii. The entire site shall be enclosed with fencing and gates as required by this Section.
 - iii. All materials delivered to the site which are organic or of organic origin or other combustible materials such as paper, cardboard, rubber, plastic, wood fiber, sawdust, floor sweepings, plaster board, framing, lumber, laths, tree stumps, trunks, branches, foliage, furniture, rags, garbage, and industrial wastes and including metal and glass containers shall be burned in the incinerator.
 - iv. All residue resulting from the burning operations and other fill materials which are inorganic or substances which are not subject to decomposition, combustion, or the production of odors shall be disposed of properly.
 - v. All materials which are to be burned shall be placed on or in a concrete slab or hopper enclosed by a building, masonry walls, or chain link type fencing at least 6 feet high provided with doors or gates which shall be securely locked when the incinerator is not in operation. The materials shall be transferred from the slab or hopper into the incinerator and shall be burned as soon as practicable. The slab or hopper shall be kept clear of all materials when not in active use.
 - vi. There shall be no separation or picking of materials or storage for salvage thereof on the site (scavenging).
 - vii. All deliveries of materials to the site, shall be done between the hours of 7:00 A.M. and 6:00 P.M. on weekdays only, except otherwise necessitated by extraordinary circumstances.
 - viii. A watchman shall be stationed at the site at all times for whom a suitable shelter or living quarters shall be provided.

- ix. Sanitary toilet facilities shall be provided on the site in accordance with the requirements of the Department of Health.
- c. Any other land fills (except hazardous materials):
 - i. No building or structure, except fencing, used in connection with the operation shall be located closer than 30 feet to any site boundary line.
 - ii. All plans shall show all pipelines used for gas collection, migration, etc. as well as the location of vents, flares, etc.
 - iii. The entire site shall be enclosed with fencing and gates as required by this Section.
 - iv. All materials delivered to the site which are organic in origin and all paper, cardboard, plastic, metal and glass containers, wood fiber, sawdust, floor sweepings, plaster board, framing lumber, laths, tree stumps, trunks, branches, foliage, furniture, rags, garbage, and industrial wastes shall be deposited and thoroughly compacted in layers not to exceed two feet in depth. Rubber tires, dead animals, and by-product wastes of a gaseous, liquid, or semi-liquid nature such as tar, paints, solvents, sludge, rubber, and plastics and other flame or fume producers may be permitted as fill material after the Kentucky Natural Resources and Environmental Protection Cabinet issues permission, unless specifically prohibited by the Board of Zoning Adjustment. Each day's deposit, after compaction, shall be covered with a layer of earth at least 6 inches in thickness after compaction. The face of the fill as well as the horizontal surface shall be covered with a layer of earth to prevent any movement of fill by wind or water erosion. Alternative methods may be allowed if approved by the Kentucky Natural Resources and Environmental Protection Cabinet and the Board.
 - v. There shall be no separation or picking of materials or storage for the salvage thereof (scavenging) on the site. All unacceptable fill materials as noted above shall be removed from the premises immediately after delivery.
 - vi. Water lines shall be installed, connected to a public water supply, or to some other source, which by use of pumps will provide water in sufficient quantity to combat fires or settle dust.
 - vii. Sanitary toilet facilities shall be installed in accordance with the requirements of the Department of Health.

- viii. No fires shall be permitted. Any smoldering flame or spontaneous combustion in the fill shall be immediately extinguished.
 - ix. A watchman shall be stationed at the site at all times for whom a suitable shelter or living quarters and sanitary facilities shall be provided on the site.
 - x. The premises shall be kept neat and clean at all times, no loose paper or debris shall be allowed on the site except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or some other method that meets current state standards.
 - xi. All deliveries of materials to the site, filling, spreading, compacting, and grading shall be done between the hours of 7:00 A.M. and 6:00 P.M. on weekdays only.
 - xii. Filling operations shall begin immediately upon the issuance of a permit. All areas shall be refilled to finish grades as shown on the topographic map filed with the application within a period of five years after commencement of operations. The Board may extend such time limit after a public hearing, but in any event all excavations on the site shall be refilled to finish grade within 10 years after commencement of operations.
 - xiii. No filling activities shall occur within 200 feet of a residential structure existing at the time of issuance of the Conditional Use Permit.
- d. Borrow pits and Earth Excavations:
- i. No building or structure, except fencing, used in connection with the operation shall be located closer than 30 feet from any site boundary line.
 - ii. Areas where excavations have been made and are taking place shall be enclosed with fencing as required above.
 - iii. Sanitary toilet facilities shall be installed in accordance with the requirements of the Department of Health.
 - iv. A watchman shall be stationed at the site at all times when active operations are taking place for whom a suitable shelter or living quarters and sanitary facilities shall be provided on the site.

- v. No excavation, screening, stockpiling, filling or hauling shall be done except between the hours of 7:00 A.M. and 6:00 P.M. on weekdays.
- vi. Re-filling operations as required shall begin immediately on areas when excavations have been made to the ultimate depth and such areas shall be refilled to finish grade as shown on the topographic map filed with the application within a period of five years after commencement of excavation operations. The Board may extend such time limit after a hearing, but in any event all excavations on the site shall be refilled to finish grade within 10 years after commencement of operations.

G. Guarantee:

To insure the strict compliance with all of the above conditions and requirements, the applicant shall deposit with the Board cash or a certified check, or execute a bond with a corporate surety authorized to do a surety business in Kentucky. The amount of cash, certified check, or bond shall be fixed at the rates as listed below for each acre, or portion thereof, of the site where the excavation or filling operation is located.

1. Extraction and development of earth products, minerals, and other natural resources - \$2,000.00 per acre
2. Borrow pits and earth excavations - \$2,000.00 per acre
3. Landfills for non-combustible materials - \$2,000.00 per acre
4. Incinerators, public and private - \$25,000.00 per incinerating unit
5. Lakes and lagoons - \$2,000.00 per acre
6. Contained landfills - \$5,000.00 per acre
7. Commercial composting - \$5,000.00 per acre

If there is a combination of any of the above operations, the larger amount shall apply.

4.2.22 Earth Excavations/Fill, Minor

Earth Excavations/Fill, Minor not constituting a quarry, borrow pit or commercial operation and/or filling of land with non-combustible inorganic materials are allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. A plan for minor excavations and/or filling must receive approval from the Metropolitan Sewer District, and the director of the Planning Commission with review and comment by the Soil Conservation Service.

- B. No excavation shall be below the normal water table, nor shall such operation have an adverse effect on the supply, quality, or purity of ground water or wells.
- C. The finished surface of the site shall bear the proper relationship to that of adjoining properties.
- D. Excavation and fill materials shall be moved off and on the site in vehicles approved by the City of Louisville and Jefferson County.
- E. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or candescence to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or some other approved method. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished.
- F. In no event will the premises be used for salvage operations of any kind. No separation or picking of waste materials will be permitted. All unacceptable fill materials as noted elsewhere in this section shall be removed from the premises immediately after delivery.
- G. No building or structure shall be erected in connection with the operation.
- H. Fill material shall be limited to nonpolluting, inorganic, non-combustible materials and soil. Rubber tires, dead animals, and by-product wastes of a gaseous liquid, or semi-liquid nature such as tar, paints, solvents, sludge, rubber, and plastics and other flame or fume producers shall not be permitted as fill material.
- I. Any of the requirements of **Section 4.2.21** of this section which the Board finds to be appropriate or necessary may be applied to the operation.
- J. Time limits and stabilization measures on completion shall be specified.

4.2.23 Electric Power or Steam Generating Plants

Electric Power or Steam Generating Plants may be allowed in the M-3 and EZ-1 districts upon granting of a Conditional Use Permit and compliance with the following regulations:

- A. When applicable, the applicant shall provide documentation from the Kentucky State Board on Electric Generation and Transmission Siting that a complete application required to obtain a construction certificate to construct a merchant electric generating facility has been submitted. Relevant portions of the application shall be submitted for the Board's consideration, as requested by staff.

- B. All structures housing generating equipment and outdoor storage facilities shall be set back at least 1,000 feet from the property line when adjacent to any non-industrial use or zoning district. Offices and employee parking areas are required to be located at least 30 feet from any property line.
- C. Facilities adjacent to property used or zoned for residential purposes shall provide a landscape buffer 60 feet wide and planted with three staggered rows of trees, half evergreen and half deciduous, with trees in each row no more than 20 feet apart.
- D. All facilities shall be enclosed within a continuous fence with a minimum height of 8 feet.
- E. The applicant shall submit to the Board of Zoning Adjustment a copy of any applicable requirements or permits approved by the Air Pollution Control District.
- F. Merchant Power Plants must comply with all the applicable regulations in KRS Chapter 278.

4.2.24 Extraction and Development of Oil, Gas, and other Hydrocarbon Substances

Extraction and Development of Oil, Gas, and other Hydrocarbon Substances may be allowed in any district (unless otherwise restricted) upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Location of Bore Holes - No oil or gas bore hole shall be drilled within 300 feet of a state highway or county road or within 150 feet of any other public way. No building or structure, except fencing, shall be located closer than 30 feet from any site boundary line.
- B. Limit on Wells - No more than one well shall be permitted for each 5 acres of land.
- C. Removal of Drilling Equipment - Within 90 days after the drilling of each well has been completed and production started, the derrick and all other drilling equipment shall be removed from the site.
- D. Portable Derricks - Any derrick erected for servicing operations shall be of a portable type.
- E. Storage of petroleum or its By-products - After a well has been brought into production, no earthen sumps shall be used for the storage of petroleum or its by-products.
- F. Fire Protection - Fire fighting equipment, as required and approved by the fire department concerned, shall be maintained on the premises at all times during drilling and production operation.

- G. Landscape Restoration - Any areas of site disturbance resulting from construction operations shall be landscaped or replanted to native plant materials.
- H. Refining of Petroleum Products - No plant for the refining of petroleum products from such operation shall be permitted on the site.
- I. Signs - One sign, not to exceed 12 square feet in area and not to exceed 6 feet in height, may be erected at each of the major entrances to the site, except in districts where signs are allowed.
- J. Operations - All drilling and production operations shall be conducted in such a manner as to eliminate, as far as practicable, dust, noise, vibration, and obnoxious odors, in accordance with the best accepted practices incident to drilling for, and production of, oil, gas, and other hydrocarbon substances.
- K. Removal of Facilities and Equipment - In the event oil or gas is not produced in paying quantities all material, equipment, and structures used in the drilling operations shall be completely removed from the site, and the well properly abandoned within one hundred twenty days after drilling operations cease.
- L. Abandonment of Wells - Upon completion of drilling, redrilling, or conditioning operations, and on abandonment of the well, all earthen sumps shall be drained and backfilled to the natural grade. Subject to the above conditions, a new sump may be constructed upon resumption of conditioning or redrilling operations.
- M. Deposit - The applicant shall deposit cash, certified check, or bond with surety made in favor of the Louisville and Jefferson County Board of Zoning Adjustment to insure proper compliance with these regulations before drilling operations are commenced.

4.2.25 Funeral Homes

Funeral Homes may be allowed in the R-7, OR-1, OR-2, OR-3, OTF, and C-R Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Funeral homes shall abut on a major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky.
- B. Signs - One non-flashing identification sign, not to exceed 15 square feet in area and not to exceed 10 feet in height, may be allowed, provided such sign is not in or over a required yard.
- C. The main building shall be located at least 30 feet from any property line.

4.2.26 Golf Driving Ranges, Miniature Golf Courses, and Privately Owned Golf Courses Operated for a Commercial Purpose

Golf Driving Ranges, Miniature Golf Courses, and Privately Owned Golf Courses Operated for a Commercial Purpose may be allowed in the R-R, R-1, C-2, and C-M Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. Protection of Adjacent Properties - Fences, plantings, or sufficient area shall be provided to insure the safety and protection of persons on all adjacent land. Any netting used for the protection of adjacent properties shall observe yard and height requirements of the district in which it is located.
- C. Signs - Except in districts where signs are allowed, one non-flashing sign, not to exceed 60 square feet in area and not to exceed 10 feet in height, may be provided at the major entrance.
- D. Driving Directions - All driving directions shall be away from any street, highway or residential area.

4.2.27 Home Occupations

Home Occupations seeking to have additional nonresident employees (beyond the extent of what is allowed in [Section 4.4.5](#)) may be allowed in any residential zoning district upon granting of a Conditional Use Permit and compliance with the listed requirements:

- A. The additional nonresident employee(s) will not cause the home occupation to be a nuisance to adjacent or nearby residences or a detriment to the residential character of the neighborhood.
- B. The applicant should demonstrate that the additional parking needed to accommodate the additional nonresident employee(s) can be provided on an existing driveway in a manner that is similar to adjacent or nearby residences or on-street in accordance with the provisions of [Chapter 4 Part 4](#) of the Land Development Code.
- C. The home occupation will continue to meet all other applicable requirements of [Chapter 4 Part 4](#) of the Land Development Code.

4.2.28 Hospitals, Clinics, and Other Medical Facilities

Facilities requiring a Certificate of Need issued by the Commonwealth of Kentucky, including hospitals, clinics, and other medical facilities, may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Signs - One freestanding sign, not to exceed 80 square feet in area or 10 feet in height, may be placed at each of the major entrances, except in districts where signs are allowed. Attached signs may be located at any height. The Board shall determine the size of all attached signs.
- B. All buildings and structures shall be at least 30 feet from any property line.

4.2.29 Institutions

Institutions may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. If using an existing residential building constructed contemporaneously with the surrounding neighborhood, its exterior appearance shall not be substantially altered.
- B. New construction within an area having an established front building setback shall be constructed at the average setback line or the minimum front yard of the form district, whichever is less. Structures adjacent to residential uses or zoning districts shall increase side yards by 10 feet for each story over two.
- C. One parking space on site shall be provided for each staff person, plus two spaces for each five residents, or five clients served by the institution. Parking shall be reduced to one space per five residents/clients if the institution serves persons with disabilities that preclude operation of an automobile.
- D. One freestanding sign not to exceed 10 square feet and 4 feet in height shall be allowed.
- E. The Board shall add any additional restrictions necessary to mitigate nuisances or adverse effects.

4.2.30 Mobile Homes and Manufactured Housing Sales, Display or Storage

The retail sale, display, or storage of more than one mobile or manufactured home may be allowed only in the C-2, C-3, C-M, and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures, including the mobile homes, shall observe the yard requirements of the District.
- B. The portion of the tract subject to the sale and display shall be paved with a hard and durable surface approved by the Director of Works. The Director of Works shall review and make recommendations on applicant's plans for entrance to streets.

- C. Screening shall be provided in accordance with Chapter 10 Landscaping, Screening and Open Space.

4.2.31 Marinas and Boat Rental Facilities

Marinas and Boat Rental Facilities may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. The applicant shall have an approved permit required by Section 404 of the Clean Water Act before a public hearing date is set for review of the facility plan.
- B. No off-street parking space shall be used for the storage of a boat trailer. All boat trailer storage areas shall be designated and have adequate access and egress facilities.
- C. Construction Operations - The construction of any harbor, lake, or basin shall conform to the requirements as set forth under Section 4.2.21 of this chapter.
- D. Retail activities shall be confined to a space no larger than 500 square feet.
- E. Signs - Except in districts where signs are allowed, there shall be no more than one non-flashing sign, not to exceed 60 square feet in area or 10 feet in height, located at the major entrances.

4.2.32 Marinas and Boat Rental Facilities, Commercial

Commercial Marinas and Boat Rental Facilities may be allowed in zoning districts which allow the use of lodging, food sales, and restaurant facilities upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. The applicant shall have an approved permit required by Section 404 of the Clean Water Act before a public hearing date is set for review of the facility plan.
- B. No off-street parking space shall be used for the storage of a boat trailer. All boat trailer storage areas shall be designated and have adequate access and egress facilities.
- C. Construction Operations - The construction of any harbor, lake, or basin shall conform to the requirements as set forth under Section 4.2.21, Excavation and Filling and Refuse Disposal Operations of this chapter.
- D. Signs - Except in districts where signs are allowed, there shall be no more than one non-flashing sign, not to exceed 60 square feet in area or 10 feet in height, located at the major entrances.

NOTE: Marina and Boat Rental, Commercial – A facility which allows the storage or docking of boats, minor servicing and repair of boats while in the water, the sale of fuel and supplies, lodging, food sales, and restaurant facilities.

4.2.33 Mini-warehouses

Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.
- B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.
- C. No outside storage shall be allowed on the property.
- D. No storage of toxic or hazardous materials shall be allowed on the property.
- E. There shall be no retail or wholesale sales or distributing activities on site.
- F. Loading doors and vehicle maneuvering areas shall be located away from the exterior of the property.
- G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below).
- H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located.

4.2.34 Mobile Home Parks

Mobile Home Parks may be allowed in the R-6, R-7, R-8A, OR-2, OR-3, C-1, C-2, and CM Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Minimum Area - The minimum area for a mobile home park shall be three acres.
- B. Mobile Home Setbacks - No mobile home shall be located closer than 50 feet to the front property line or closer than 20 feet to any other property line. In an instance where there is a required yard of greater depth, the more restrictive shall apply.

- C. Mobile Home Spaces - Mobile home spaces shall be no smaller than 4,000 Square Feet and minimum 32 feet wide. Each mobile home space shall have unobstructed access at least 15 feet wide to a public or private street within the Mobile Home Development which shall have unobstructed access to an exterior public street. No mobile home space shall be directly accessible from any exterior street or thoroughfare.
- D. Signs - Except in districts where signs are allowed, one stationary non-flashing sign, not to exceed 60 square feet in area, may be located at the vehicular entrance to the park. No sign shall extend into or over a required yard.
- E. Mobile Home Location - Mobile homes shall be so harbored on each space that there shall be at least a 20-foot clearance between each mobile home and mobile homes and structures.
- F. Driveways - All mobile home spaces shall front on a paved driveway of not less than 18 feet in width, which shall have unobstructed access to a public way.
- G. Recreational Vehicles - Recreational Vehicles shall be prohibited as a principal use in any Mobile Home Development.

4.2.35 Multi-Family Dwellings

Multi-Family Dwellings may be permitted in the OR Office Residential District upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. There shall be no more than one multi-family residential identification sign facing each street bordering the site. Signs shall not be illuminated, OR illumination of the sign shall be limited to internal lighting of the address portion of the sign.
- B. Landscaping – A planting/buffer strip with average width of at least 15 feet shall be provided along any property boundary adjacent to single family zoned land. This strip shall be planted in accordance with the screening requirements of **Chapter 10, Part 2**. A landscape plan which addressed the buffer strip, tree preservation and interior parking lot landscaping shall be submitted as part of the Conditional Use Permit application.
- C. Type and location of trash containers and related screening shall be indicated on the plan.

4.2.36 Nursing Homes and Homes for the Infirm or Aged

Nursing Homes and Homes for the Infirm or Aged may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings shall be located at least 30 feet from any property line.
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.
- C. The Board of Zoning Adjustments shall add any restrictions to mitigate nuisances or adverse effects.

4.2.37 Off-Street Parking Areas

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

- A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).
- B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.
- D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.
- F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for traffic engineering prior to the public hearing on the Conditional Use Permit.

4.2.38 Outdoor Paint Ball Ranges

Outdoor Paint Ball Ranges may be located in the R-R and R-1 Districts upon the granting of a Conditional Use Permit.

- A. All buildings and structures shall be at least 30 feet from any property line.

- B. Protection of Adjacent Properties - Fences, plantings, or sufficient area shall be provided to insure the safety and protection of persons on all adjacent land. Any netting used for the protection of adjacent properties shall observe yard and height requirements of the district in which they are located.
- C. All outdoor ranges shall be enclosed by a continuous fence at least 6 feet in height to exclude animals and people.
- D. Warning signs shall be placed at intervals of 100 feet along all range fences.

4.2.39 Potentially Hazardous or Nuisance Uses

The following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

- A. The Comprehensive Plan;
- B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare;
- C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare;
- D. Any other evidence submitted by the applicant and any other party addressing the issues.

A Conditional Use Permit under this section shall be issued only if the evidence shows the applicant's operation and associated nuisances will be properly managed and the public's health, safety and general welfare will be protected. The Board of Zoning Adjustment may impose additional conditions to protect surrounding properties. All Conditional Use Permits under this section shall be issued subject to the applicant also receiving all necessary permits from local, state and federal regulatory agencies.

EZ-1 and M-3

Aluminum powder

Brick, fireback, tile, clay products, including refractories: manufacturing, processing or treatment but not including storage

Cement, gypsum, lime, and plaster of paris (but not storage)

Charcoal, lampblack, carbon black, bone black, and fuel briquettes, including pulverizing

Chemicals, including acetylene, acids and derivatives, alcohol (industrial), ammonia, aniline dyes, carbide, caustic soda, cellulose and cellulose storage, chlorine, cleaning and polishing preparation (non-soap), dressings and blackings, creosote, dyestuffs, exterminating agents and poisons, hydrogen and oxygen, plastic materials, and synthetic resins, potash, pyroxylin, tar products, turpentine and resin, and solvent-extracting

Coal, coke, or tar products including fuel gas, and coke-oven products

Distillation, manufacture, or refinement of coal, tar, asphalt, or asphalt products

Metal and metal ores, reduction, refining, smelting, alloying, including blast furnaces, cupolas, and blooming mills (but not storage of metal products)

Minerals and earths (including sand-lime products), grinding, crushing, processing or storage

Paint manufacture, processing, or treatment (but not storage)

Petroleum or petroleum products, refining, bulk storage, including gasoline or other petroleum products

Plastic, manufacture, processing, treatment, or bulk storage

Radioactive materials

Steel works and rolling mills (ferrous) for steel, structural iron and steel fabrication, and structural products, including bars, cables, girders, rails, wire rope, or similar products

Waste paper and rag operations

Wood pulp or fiber, reduction or processing (including paper mill operations)

M-3 Only

Distillation of wood and bones

Explosives (when not prohibited by other ordinances) including ammunition, fireworks, nitrating of cotton or other materials, nitrates (manufactured and natural) of an explosive nature, and storage of latter

Exterminating operations where exterminating chemicals or agents are stored

Fertilizer (organic and non-organic), including fish, oils, manure, or peat

Glue and size (vegetable), gelatin (animal), and starch manufacture

Grain storage or grain elevators

Hair, hides, raw fur, leather, curing, dressing, dyeing, finishing, tanning, and storage

Match manufacture, processing, or treatment

Meat and fish products, including slaughtering of meat or curing of fish, packing, and storage

Ore dumps, slag piles

Rendering, incineration or reduction, and storage of dead animals,
garbage, offal, or waste products (the entire operation to be
performed within a building)
Slaughtering of animals or poultry
Stock yards and feed lots

4.2.40 Private Non-profit Clubs

Private Non-profit Clubs may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, R-8A, OR-1, OR-2, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses upon the granting of a Conditional Use Permit.

- A. All new buildings, structures, and facilities (except parking) shall be at least 30 feet from any property line.
- B. Outdoor swimming pools shall be enclosed within a fence at least six feet high.
- C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high.
- D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non-flashing.

4.2.41 Private Proprietary Clubs

Private Proprietary Clubs may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, OR-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit.

Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit.

- A. All new buildings, structures and facilities shall be at least 30 feet from any property line.
- B. Outdoor swimming pools shall be enclosed with a fence at least six feet high.

- C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high.
- D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non-flashing.

4.2.42 Ranges for Shotgun, Rifle, Pistol, Air Rifle, Air Pistol or Other Firearms

Ranges for shotgun, rifle, pistol, or other firearms or for air rifle or air pistol may be allowed in the R-R, R-1, and C-2 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All target ranges shall be of sufficient length and be provided with an earthen back stop of sufficient height and thickness to safely stop all projectiles from the various types of weapons used.
- B. All outdoor ranges shall be enclosed by a continuous fence at least 6 feet in height to exclude animals and people.
- C. Warning signs shall be placed at intervals of 50 feet along all range fences. Indoor ranges shall have one warning sign at each entrance and at any windows, doors, or other openings in the walls.
- D. The applicant shall present a plan for removal of spent ammunition that meets state requirements for remediation of heavy metals.
- E. Indoor target ranges shall have sufficient sound proofing to prevent the sound of firearm discharge from being heard outside the walls of the range facilities.

4.2.43 Riding Academies and Stables

Riding Academies and Stables may be allowed in the R-1, R-2, R-3, R-4, C-2, and C-M Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings, structures, and facilities associated with the activity shall be at least 50 feet from any property line.
- B. Exercise tracks shall be maintained in non-dust condition at all times.
- C. A five-foot tall fence shall be erected.

- D. A minimum of one off-street parking space shall be provided for each three stalls for horses.

4.2.44 Scrap Metal Processing Facilities and Junkyards

Scrap Metal Processing Facilities and Junkyards as defined in the Jefferson County Code of Ordinances may be allowed in the M-3 District upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Scrap Metal Operations shall be prohibited in all primary groundwater recharge areas.
- B. Operations shall be required to provide a detailed plan approved by the Metropolitan Sewer District illustrating measures taken to ensure the protection of surface and groundwater sources. Contamination of any domestic water supply, or surface run-off from the site onto any adjoining land, surface water body or wetland shall be mitigated by use of holding tanks, settling ponds or other necessary devices.
- C. All evidence of the Scrap Metal Operations shall be removed by the property owner promptly after its discontinuance as a business enterprise.
- D. The screening, buffering, security and operating standards shall comply with the requirements set forth in Jefferson County Code of Ordinances, Chapter 114.

4.2.45 Sewage Disposal Plants

Sewage Disposal Plans shall be located in any district upon the granting of Conditional Use Permit and compliance with the following standards:

- A. A building, structure, basin, lagoon, or appurtenance shall be located no closer to the property lines than as limited by the Louisville and Jefferson County Board of Health, but in any case all yards shall be provided as required in the district in which the plant is located.
- B. All facilities shall be enclosed within a continuous fence with a minimum height of 6 feet.
- C. All residue from the treatment plant shall be removed from the premises unless fully enclosed storage facilities are provided and maintained free of nuisance, by reason of odor, sight, or insect breeding, to neighboring properties.
- D. All facilities shall be sufficiently landscaped to screen them from neighboring properties and to blend with the district in which it is located.

- E. Provisions for continuous responsible operation and maintenance of the plant shall be filed with the Board prior to the public hearing on the Conditional Use Permit.
- F. Written approval of the site location from the Louisville and Jefferson County Board of Health, Metropolitan Sewer District, and the Kentucky Department of Natural Resources and Environmental Protection, shall be filed with the Board prior to the public hearing on the Conditional Use Permit.

NOTE: *Water quality concerns for a composting facility currently need approval from the KY Division of Waste Management, KY Division of Water, and MSD.*

4.2.46 Solid Waste Management Facilities

Solid Waste Management Facilities, including composting facilities, construction/demolition debris facilities, indoor recycling facilities, outdoor recycling facilities, and solid waste transfer stations may be permitted subject to the conditions and in the zoning districts listed in the following sub-sections. In addition, the following conditions apply to all of these types of facilities:

- A. All of the facilities referenced in this sub-section 4.2.46 are required to have a license to operate from the Jefferson County Waste Management District (SWR 20.0).
- B. A specific written or site plan for vehicle cleaning facilities to prevent the tracking of mud, dirt or other debris onto any public roadway shall be reviewed and approved by the Director of Works before public hearing.
- C. A continuous fence a minimum of 6 feet high shall be placed along the boundaries of all work and storage areas and provided with gates of the same construction as the fence which shall remain locked at all times when active operations are not taking place and shall be properly maintained until all operations are completed.
- D. When adjoining any residential zoning district, the facility may not be operated on Sunday or earlier than 7:00 a.m. or later than 6:00 p.m. on any other day.
- E. In addition to these conditions, the following conditions apply to the respective category.
 - 1. **Composting Facilities** may be located in R-R, R-1, M-2, and M-3 Districts upon the granting of a Conditional Use Permit when developed in compliance with the following listed requirements:
 - a. All composting facilities must demonstrate compliance with the applicable state statutes dealing with said facilities (401 KAR Chapters 45 through 49).
 - b. No composting operation shall occur within 50 feet of any boundary of the site.
 - c. Additional landscaping is required in the buffer areas between composting activity areas and any adjacent non-industrial uses.

- d. Provisions shall be made for the disposal of surface water falling on or crossing the site at all times during and after completion of the operations. No operation shall begin until approval has been obtained from the agencies responsible for surface water drainage and surface water quality.
 - e. The installation of roads, parking areas, buildings, structures, and operational facilities and equipment shall be located on the site so that adjoining properties will not be adversely affected.
 - f. Composting materials shall be moved off and onto the site in vehicles approved by the appropriate Director of Works.
 - g. All composting operations shall be in strict conformity with the regulations of the Louisville and Jefferson County Board of Health; Air Pollution Control District; Kentucky Department for Environmental Protection and the Director of Works. Letters or Certificates of Approval of the plans by the above agencies indicating prior review shall be filed prior to the issuance of any Conditional Use Permit. Uses shall not begin until final approval has been obtained and filed in the Board of Zoning Adjustment docket file.
 - h. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or light to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No debris shall be stored on the site except on areas where active composting operations are taking place. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished.
 - i. Grinding or other heavy machinery associated with composting operations located within one-half mile of residentially used or zoned property shall provide information on sound levels resulting from operation of said equipment, and hours of operation. The Board may establish conditions necessary to protect nearby residents.
 - j. Except for protective fences, no building or structure erected in connection with the operation shall be located in any required yard or closer than 30 feet from any property line.
 - k. All composting facilities shall also meet the Jefferson County Waste Management District regulations covered in SWR 62.0.
2. **Construction/Demolition Debris Facilities** shall be located in the R-1, M-2, M-3, and EZ-1 Districts upon the granting of a Conditional Use Permit when developed in compliance with the following conditions.
- a. All construction/demolition debris facilities must demonstrate compliance with the applicable Jefferson County Waste

Management District regulations (SWR 63.0, Construction/demolition Debris Facilities).

- b. All work and storage areas shall be at least 100 feet from the exterior property lines. If there are any abutting residentially zoned or used parcels then all work and storage areas shall be at least 200 feet from the exterior property line.
- c. Grinding or other heavy machinery associated with operations located within one-half mile of residentially used or zoned property shall provide information on sound levels resulting from operation of said equipment, and hours of operation. The Board may establish conditions necessary to protect nearby residents

3. **Indoor Recycling Facilities**, if not in conflict with other laws or ordinances, may be located in the M-2, M-3 and EZ-1 Industrial Districts upon granting of a Conditional Use Permit after the location and nature of such use have been approved by the Board of Zoning Adjustment. The Board of Zoning Adjustment shall review the Comprehensive Plan, the plans and statements of the applicant and shall not permit such buildings, structures, or uses until it has been shown that the public health, safety, and general welfare will be properly protected, and that necessary safe guards will be provided for the protection of surrounding property and person.

Recycling and/or storage of the following materials:

Glass and glass products
 Paper and paper board and fiber
 Non-ferrous metals
 Ferrous metals (limited to food and beverage containers)
 Wallboard
 Plastic and rubber products, and Insulation;

may be permitted when developed in compliance with the following conditions:

- a. The operation including loading and unloading operations is completely enclosed in building(s) approved for such purposes by all applicable fire protection authorities.
- b. The operation will not have or require any fire, smelting, fumes, chemicals or other toxic materials, hazardous waste or by-products, and the use and site shall conform to such other requirements and conditions as the Board in the exercise of sound discretion may require for the protection of surrounding property, persons, and neighborhoods values.
- c. The building(s) shall be a minimum of 200 feet or a lesser distance if approved by the Board of Zoning Adjustment from any surrounding residential district(s). The Board may substitute additional screening requirements for a reduction of the 200-foot setback.

4. **Outdoor Recycling Facilities** (not constituting Scrap Metal Processing Facilities or Junkyards as defined in the Jefferson County Code of Ordinances) may be allowed in the M-3 Districts upon the granting of a Conditional Use Permit when developed in compliance with the following requirements:
- a. Outdoor recycling facilities located within one-half mile of residentially used or zoned property shall provide information on sound levels and hours of operation. The Board may establish conditions necessary to protect nearby residents.
 - b. All outdoor recycling work and storage areas shall be at least 100 feet from the exterior property lines. If there are any abutting residentially zoned or used parcels then all work and storage areas shall be at least 200 feet from the exterior property line.
 - c. Landscaping shall be placed between the exterior property lines and all outdoor recycling work and storage areas as described in **Chapter 10**.
 - d. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or light to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site. Any smoldering flame or spontaneous combustion shall be immediately extinguished.
5. **Solid Waste Transfer Stations** may be allowed in the M-2 and M-3 Districts upon the granting of a Conditional Use Permit when developed in compliance with the following requirements:
- a. The minimum site size is 3 acres.
 - b. All on-site transferring of solid waste will be conducted entirely within an enclosed building(s).
 - c. Doors to the building(s) shall remain closed except to temporarily allow transport trucks to enter and exit the building.
 - d. Vehicle access to the site will be paved and will be provided only from a street classified as a collector or arterial, or from any street which leads directly from a collector street. Acceleration/deceleration lanes will be provided unless the appropriate transportation department determines they are not suitable at that particular location. All access driveways which provide site ingress or egress must be wide enough to accommodate two lanes of traffic. An area on the site must be provided between the entrance off the street and the solid waste transfer building to accommodate a minimum of ten vehicles and no vehicles will be allowed to back up on any public right-of-way.

- e. All waste processing/storage activities of a solid waste transfer station must be located a minimum of 100 feet from any exterior property line, except the minimum shall be increased to 300 feet from any residentially used or zoned property.
- f. All existing trees and vegetation on the solid waste transfer station site are to remain in an undisturbed condition in the setback areas established in Number 5, above. Where the natural growth does not provide an effective visual barrier from the view of adjoining properties and/or from a public street, vegetation will be provided according to landscaping requirements as stated in **Chapter 10**.
- g. Solid waste transfer stations must be served by public water and sewer facilities.
- h. All solid waste transfer stations shall comply with all the requirements of the Sanitary Code of the Louisville and Jefferson County Board of Health or its successor. These facilities shall pay special attention to Section 1302.3 regarding the storage of garbage and rubbish.
- i. All solid waste transfer stations shall also meet applicable Jefferson County Waste Management District regulations (SWR 61.0).

4.2.47 Sports Arenas

Sports Arenas may be allowed in the R-R, R-1, C-2, C-M, EZ-1 and PTD Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. There may be one non-flashing sign, not to exceed 50 square feet in area and not to exceed 10 feet in height, located at three major entrances.

4.2.48 Storage Yard and Contractor's Yard

Storage Yard and Contractor's Yard may be allowed in the C-2, M-1 and C-M Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements, except that a C.U.P. shall not be permitted within the Traditional Neighborhood and Traditional Marketplace Corridor Form Districts.

- A. Outdoor storage areas prohibited within form district transition zone.
- B. Stacked materials and equipment shall not exceed a height of five feet.
- C. Outdoor storage areas shall be screened from adjacent streets and properties.

- D. Storage of combustible materials shall conform to the requirements of NFPA Pamphlet 30 (information on NFPA pamphlet 30 may be obtained from local fire department).

4.2.49 Underground Space

Use of underground space may be permitted upon the granting of a Conditional Use Permit and may be located beneath any surface zoning district provided that the permit shall apply only to the subsurface and shall not affect the zoning district or districts designated for the surface above the underground space and provided that the vehicular access points entering and exiting the underground space shall be classified in one of the following districts: M-1, M-2, M-3, PEC, PRO, C-M, C-2, or EZ-1.

The following uses of underground space may be permitted upon the granting of a Conditional Use Permit:

- Any use permitted by right in the zoning district controlling the primary vehicle entrance.
- Any use permitted by Conditional Use Permit in the zoning district controlling the primary vehicular entrance. Such use shall comply with the listed requirements for that specific conditional use.
- Removal of previously mined materials

The granting of a Conditional Use Permit shall be subject to the following listed requirements:

- A. Applicant shall furnish to the Board of Zoning Adjustment proof of subsurface ownership rights at the time of application.
- B. Any materials stored or operations conducted therein shall be in accordance with all applicable governmental regulations, including Metropolitan Sewer District, Air Pollution Control District, Kentucky Cabinet for Natural Resources and Environmental Protection, or the Federal Environmental Protection Agency.
- C. A specific written or site plan for vehicle cleaning facilities to prevent the tracking of mud, dirt or other debris onto any public roadway shall be reviewed and approved by the Jefferson County Engineer or City of Louisville Department of Public Works prior to the public hearing.
- D. Certification of adequate surface support to prevent cave-ins and subsidence prepared by a professional engineer registered in Kentucky shall be submitted at the time of application. Such certification may provide for exceptions or conditions which must be adhered to as a condition of Conditional Use Permit approval and must have been dated within the past three (3) years.

- E. Where applicable, underground space must have a valid building permit to develop a habitable underground building and to qualify for a certificate of occupancy.
- F. The entrances to all Underground Space sites shall be through property owned or controlled by the owners or operators of the underground space. Such entrances shall be on property properly zoned to contain the uses developed within the underground space.

4.2.50 Zoos

Zoos may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. A continuous fence at least 6 feet high shall be erected around portions of the site used for cages, pens, or yards.
- B. Except in districts where signs are allowed, there shall be no more than one non-flashing sign, not to exceed 30 square feet in area and not to exceed 10 feet in height, located at the major entrances.
- C. Buffers and Screening – There shall be a 100-foot open space and landscaped buffer between all property lines and all buildings and structures.

4.3.1 Intent and Applicability

Certain uses are appropriate in certain districts only if special standards are applied. These uses listed in this Part are permitted in the districts indicated provided they conform to the standards and requirements listed in each section.

4.3.2 General Provisions

In addition to meeting the special standards listed under the particular use in this Section, all Permitted Uses with Special Standards shall be required to comply with the requirements of this Land Development Code, except to the extent that they conflict with an applicable special standard, in which case the special standard shall prevail. Proposed developments in accordance with this Part shall be processed using the Category 2 review procedure (Section 11.6.3). Applications shall include materials needed to demonstrate compliance with the special standards.

4.3.3 Dwellings in EZ-1 District - Single Family

Single family residential dwellings are permitted in the EZ-1 district provided they comply with the following standards:

- A. The property is located in the Traditional Neighborhood, Traditional Workplace, or Traditional Marketplace Corridor Form District

4.3.4 Dwellings in EZ-1 District - Multiple family, as a reuse of an existing structure

Multiple family residential dwellings are permitted in the EZ-1 district provided they comply with the following standards:

- A. The property is located in the Traditional Neighborhood, Traditional Workplace, Traditional Marketplace Corridor, or Downtown Form District.
- B. The purpose of permitting multi-family dwellings in the EZ-1 district subject to special standards is to encourage the adaptive reuse of existing structures that are at least twenty-five (25) years old and which are currently unutilized or underutilized. Thus, multiple family dwellings are permitted only when locating in a building existing on March 1, 2003 (effective date of the LDC) and which is at least twenty-five (25) years old, all or only a portion of which is converted to multi-family residential use.
- C. Maximum Density
 - 1. For 0 bedroom dwelling units only.....435 Dwelling units per acre
 - 2. For 1 bedroom dwelling units only.....217 Dwelling units per acre
 - 3. For 2 or more bedroom dwelling units only....145 Dwelling units per acre

4.3.5 Accessory Structures Greater Than 1000 Square Feet

Accessory structures for single family residential uses may have building footprints greater than 1,000 square feet provided they comply with the following standards:

- A. The accessory structure is located in the Neighborhood or Village Form District; and
- B. The footprint of the accessory structure is no more than 1.5 times the footprint of the principal structure or the total building coverage of the lot including proposed accessory structure shall not exceed 25%, whichever is less; and
- C. The accessory structure is located at least 10 feet from a side or rear property line; and
- D. All owners of abutting residentially zoned property have signed a statement indicating that they have seen a plan of the proposed accessory structure and do not oppose its construction.

Note: This section 4.3.5 does not apply to agricultural uses and related accessory structures (e.g., barns, stables.)

4.3.6 Temporary Activities

Temporary activities may be permitted by the Planning Director or designee within any form district and zoning district in accordance with the standards set forth below:

- A. Pavement or gravel used for the event shall be removed after the completion of the event and the ground reseeded within 2 weeks of removal of pavement or gravel; and
- B. No activities shall take place on land within the required stream buffer of a blue line stream or wetland as specified in Chapter 4 Part 8; and .
- C. A temporary fence shall be provided to prevent access and parking from crossing over into adjacent properties and within environmentally sensitive areas (e.g. wetlands, stream buffers, etc.); and
- D. No event shall exceed 10 days in duration within a residential zoning district. No event shall exceed 30 days in duration in any non-residential zoning district. No more than two events shall be permitted on the same property within a calendar year; and
- E. Permanent changes to the site are prohibited; and

“Temporary Activities” definition: - Temporary activities are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary activities include: temporary carnivals and fairs, temporary parking lots, temporary circus, temporary rodeo, temporary “Haunted House”,

- F. Vehicle ingress and egress to the site shall be approved by the Director of Works or designee. Gravel or other measures to accommodate vehicles and prevent tracking of the public right-of-way may be required; and
- G. No temporary activity within a residential zoning district shall take place within 200 feet of a dwelling unit(s) unless approval is obtained in writing from the owner(s) of the dwelling unit(s).

The following topics are discussed in this section:

SECTION	USE
4.4.1	Adult Entertainment Activities
4.4.2	Antenna Towers for Cellular Telecommunications Services or Personal Communications Services
4.4.3	Fences, Walls and Signature Entrances
4.4.4	Garage Sales
4.4.5	Home Occupations
4.4.6	Inactive Cemeteries
4.4.7	Minor Earth Excavations
4.4.8	Outdoor Sales, Displays and Storage
4.4.9	Refuse Disposal Containers
4.4.10	Swimming Pools

4.4.1 ADULT ENTERTAINMENT ACTIVITIES

- A. "Adult entertainment activity" shall mean any one or more of the following activities defined in Chapter 1 Part 2 of the Land Development Code, unless otherwise defined by municipal ordinance:¹

Adult Amusement Arcade
Adult Book Store
Adult Motion Picture Theater
Adult Novelty Center
Adult Stage Show Theater
Adult Video Cassette or DVD Rental Center
Cabaret
Commercial Sexual Entertainment Center
Self Designated Adult Entertainment Center

- B. Adult entertainment activity may be permitted in the M-3 Industrial zoning district provided it is in conformance with all applicable federal, state, and local laws and regulations, including the provisions of this Land Development Code, and the following requirements:

¹ See Appendices 1B and 1C for addition of "escort services" as an adult entertainment activity within the Cities of Jeffersontown and Middletown.

1. The public entrance to an establishment engaging in adult entertainment activity shall not be located within 1,000 feet of any building containing a public or private elementary, middle, or secondary school, institution of higher education or business college, or any park-mall or park-like area of open space under the control of a governmental agency, or any building used for a place of religious worship, or any building used for a governmental function or public library. Such distance shall be measured along a straight line from the nearest property line of the property on which the building or public park-like area is located to the entrance to such establishment engaging in adult entertainment activity.
2. The public entrance to an establishment engaging in adult entertainment activity shall not be located within 1,000 feet of any area zoned R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, UN, OR, OR-1, OR-2, OR-3, OTF, TNZD, PRD, PVD or any property used for residential purposes. Such distance shall be measured along a straight line from the boundary line of the nearest area zoned R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, UN, OR, OR-1, OR-2, OR-3, OTF, TNZD, PRD, PVD or used for residential purposes to the entrance to such establishment engaging in adult entertainment activity.
3. The public entrance to an establishment engaging in adult entertainment activity shall not be located within 1,000 feet of the public entrance of another adult entertainment activity establishment.
4. The public entrance to an establishment engaging in adult entertainment activity shall not be located within 1,000 feet of the public entrance of an establishment licensed to serve alcoholic beverages.

Note: Persons engaging in or intending to engage in the business of conducting an adult entertainment activity are advised to consult the applicable ordinance of the jurisdiction regulating such activity to ascertain the extent of zoning and licensing regulations of such activities and whether the premises on which they are conducting or intending to conduct adult entertainment activities conform with said ordinances.

4.4.2 ANTENNA TOWERS FOR CELLULAR TELECOMMUNICATIONS SERVICES OR PERSONAL COMMUNICATIONS SERVICES

An antenna tower for cellular telecommunications services or personal communications services may be allowed in any district after receiving Planning Commission review and approval in accordance with this section. The Planning Commission may delegate its approval authority to a committee of the Planning Commission. The Planning Commission may approve the proposed antenna tower only upon finding that the proposal complies with the Comprehensive Plan and the zoning regulations, including this section. Reasonable attempts to co-locate additional transmitting or related equipment are required. Any request for review of a proposal to construct such an antenna tower shall be made only in accordance with this section.

NOTE: Revised plans are required for co-locations as well as new towers.

If the property is subject to an existing district development plan or to an existing Conditional Use Permit, the property owner shall obtain approval of the appropriate amendment or modification request. Such request shall be filed simultaneously with the antenna tower for cellular telecommunications services or personal communications services request filed pursuant to this section. The property owner shall be responsible for making alternative provisions for any alteration of the district development plan or Conditional Use Permit or shall obtain a variance or waiver of the specific plan or Permit requirement affected by the location of the tower on the site.

A. General Provisions:

1. Documentation: Every utility or a company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct an antenna tower for cellular telecommunications services or personal communications services within Jefferson County shall submit a completed uniform application to the Planning Commission, which shall include the following:
 - a. A grid map showing the location of all existing cellular antenna towers and indicating the general position of proposed construction sites for new cellular antenna towers within an area that includes:
 - i. All of the planning unit's jurisdiction; and
 - ii. A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers
 - b. The full name and address of the applicant;
 - c. The applicant's articles of incorporation, if applicable;
 - d. A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, including boring logs and foundation design recommendations;
 - e. A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas;
 - f. Directions from the county seat to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions;

- g. The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and, if applicable, the portion of the agreement demonstrating compliance with KRS 100.987(2);
- h. The identity and qualifications of each person directly responsible for the design and construction of the proposed tower;
- i. A site development plan or survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system;
- j. A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;
- k. The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky;
- l. A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower;
- m. A statement that every person who, according to the records of the property valuation administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed, has been:
 - i. Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction;
 - ii. Given the telephone number and address of the local planning commission; and
 - iii. Informed of his or her right to participate in the planning commission's proceedings on the application;

- n. A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners;
- o. A statement that the chief executive officer of the affected local governments and their legislative bodies have been notified, in writing, of the proposed construction;
- p. A copy of the notice sent to the chief executive officer of the affected local governments and their legislative bodies;
- q. A statement that:
 - i. A written notice, of durable material at least two (2) feet by four (4) feet in size, stating the “[Name of applicant] proposes to construct a telecommunications tower on this site” and including the addresses and telephone numbers of the applicant and the planning commission, has been posted and shall remain in a visible location on the proposed site until final disposition of the application; and
 - ii. A written notice, at least two (2) feet by four (4) feet in size, stating that “[Name of applicant] proposes to construct a telecommunications tower near this site” and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site;
- r. A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed;
- s. A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific property involved;

- t. A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers' facilities or on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities; and
 - u. A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.
- 2. Notice: Written notice of the meeting at which the application to construct an antenna tower will be considered shall be given to the owner of every parcel of property adjoining at any point or across the street from the property on which the antenna tower is proposed to be constructed at least ten (10) calendar days prior to the meeting. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications.
- 3. Procedure: After an applicant's submission of a completed uniform application to construct an antenna tower, the Planning Commission shall:
 - a. Review the uniform application in light of its agreement with the Comprehensive Plan and the Land Development Code;
 - b. Make its final decision to approve or disapprove the uniform application; and

- c. Advise the applicant in writing of its final decision within sixty (60) days commencing from the date that the completed uniform application is submitted to the Planning Commission or within a date certain specified in a written agreement between the Planning Commission and the applicant. If the Planning Commission fails to issue a final decision within sixty (60) days and if there is no written agreement between the Planning Commission and the applicant to a specific date for the Planning Commission to issue a decision, the uniform application shall be deemed approved.

If the Planning Commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the Comprehensive Plan and the Land Development Code. No permit for construction of a cellular or personal communications services antenna tower shall be issued until the Planning Commission approves the uniform application or the sixty (60) day time period has expired and the Planning Commission has failed to issue a decision.

The Planning Commission may require the applicant to make a reasonable attempt to co-locate additional transmitting or related equipment. The Planning Commission may provide the location of existing cellular antenna towers on which the Commission deems the applicant can successfully co-locate its transmitting and related equipment. If the Planning Commission requires the applicant to attempt co-location, the applicant shall provide the Planning Commission with a statement indicating that the applicant has:

- i. Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities, and that identifies the location of the tower or suitable structure on which the applicant will co-locate its transmission and related facilities; or
- ii. Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities and that:
 - (a.) Identifies the location of the towers or other structures on which the applicant has attempted to co-locate; and

- (b.) Lists the reasons why the co-location was unsuccessful in each instance.
- d. The Planning Commission may deny a uniform application to construct a cellular antenna tower based on an applicant's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.

Upon the approval of an application for the construction of a cellular antenna tower by the Planning Commission, the applicant shall notify the Public Service Commission within ten (10) working days of the approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If an applicant fails to file notice of an approved uniform application with the Public Service Commission, the applicant shall be prohibited from beginning construction on the cellular antenna tower until such notice has been made.

- i. **Guarantee:** Any contract with an owner of property upon which a cellular antenna tower is to be constructed, shall include a provision that specifies, in the case of abandonment, the method that will be followed for dismantling and removing a cellular antenna tower, including a timetable for removal. To insure the removal of all improvements at any abandoned telecommunications facility, any applicant filing a request under this section shall, at the time of submittal of the list of existing towers, deposit with the Planning Commission and to the benefit of the Planning Commission a letter of credit, a performance bond, or other security acceptable to the Planning Commission in the amount equal to the cost of the demolition and removal of the telecommunications tower. An applicant having multiple towers within Jefferson County may deposit a single guarantee in the amount equal to the cost of demolition and removal of the one telecommunications tower it owns which would cost the most to demolish and remove until such time as the number of its towers exceeds four (4) such facilities, both existing and projected within the current calendar year. At such time as the approved number of an applicant's towers exceeds four (4) such facilities, the applicant shall increase the amount on deposit to an amount equal to the cost of the most costly demolition and removal times 25% percent of that applicant's total number of towers both existing and projected within the next calendar year. Any guarantee submitted shall be irrevocable and shall provide for the Planning Commission to collect the full amount of the guarantee if the applicant fails to maintain the guarantee.

- ii. Special expert Consultants and Costs: The Planning Commission may retain special expert consultants as it deems necessary to provide assistance in the review of site location alternative analysis. Application fees may be established to cover the costs of staff and/or special expert consultant review of requests filed under this section, within any limits established by KRS Chapter 100.
 - iii. Confidentiality: With the exception of the map or other information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, all other information contained in the uniform application and any updates shall be recognized as confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of such information, whether submitted under Kentucky's Open Record Act or otherwise, unless ordered to disclose such records by a court of competent jurisdiction or unless confidentiality is waived in writing by the applicant.
- B. Design Standards: At the time of filing of a request under this section, the applicant shall provide information demonstrating compliance with the requirements listed below. Waivers of the following standards may be requested by the applicant and granted by the Planning Commission in accordance with the provisions of **Chapter 11 Part 8**.
- 1. All structures, except fences, shall be located at least 50 feet from the property line of any residentially zoned property and shall, in all other circumstances, observe the yard requirements of the district in which they are located.
 - 2. The site shall be landscaped in accordance with the requirements of **Chapter 10 Part 2** for utility substations. If the site is an easement, the easement boundaries, exclusive of that portion used strictly for vehicular access, shall be treated as property boundaries for the purposes of applying **Chapter 10 Part 2**.
 - 3. Any monopole, guyed, lattice, or similar type cellular antenna tower and any alternative cellular antenna tower structure similar to these towers, such as light poles, shall be maintained in either galvanized steel finish or be painted light gray or light blue in color. Alternate sections of aviation orange and aviation white paint may be used ONLY when the FAA finds that none of the alternatives to such marking are acceptable.

4. A cellular antenna tower or alternative cellular antenna tower structure may be constructed to a maximum height of 200 feet regardless of the maximum allowed height for the district in which it is located. This also applies to any tower taller than 15 feet constructed on the top of another building, with the height being the overall height of the building and tower together measured from the grade to the highest point. When any cellular antenna tower or alternative cellular antenna tower structure is taller than the distance from its base to the nearest property line, the applicant shall furnish the Planning Commission with a certification from an engineer registered in the Commonwealth of Kentucky that the tower will withstand winds of 70 miles per hour in accordance with current ANSI/EIA/TAI standards. When a tower taller than 15 feet constructed on the top of another building results in the overall height of the building and tower, including any antenna, being greater than the distance from the base of the building to the nearest property line, the applicant shall furnish to the Planning Commission this same certification.
5. A cellular antenna tower or alternative cellular antenna tower structure may be artificially lighted ONLY with steady-burning red obstruction lights (FAA type L-810) or flashing red obstruction lights (FAA type L-864) flashing no faster than 20 flashes per minute. Flashing red obstruction lights (FAA type L-864) flashing faster than 20 flashes per minute, medium intensity flashing white obstruction lights (FAA type L-865 or L-866), high intensity flashing white lights (FAA type L-856 or L-857), or dual flashing red obstruction lights and medium intensity flashing white obstruction lights (FAA types L-864/L-865) may be used ONLY when the FAA specifies that the specific lighting pattern is the ONLY lighting pattern acceptable to promote aviation safety.
6. The site shall be unstaffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, access shall be only from access points approved by the applicable Works Department, and there shall be provided on site an area sufficient to accommodate the parking of the service vehicle.
7. The site shall be enclosed by an eight (8) foot high security fence, and the fence may be located in any required yard at any height, but not in the sight triangle described in **Section 5.1.7.H.**

8. Any site to be purchased or leased for the installation of a cellular antenna tower or alternative cellular antenna tower structure and ancillary facilities shall comply with the minimum lot size requirements of the district in which the site is located.
9. The facility shall comply with the FCC's regulations concerning radio frequency emissions. To the extent that the facilities do not comply with the FCC's regulations, the Planning Commission may establish additional requirements on the basis of the environmental effects of radio frequency emissions. (See P.L. 104-104, Sec. 704).
10. If the use of any cellular antenna or cellular antenna tower or alternative cellular antenna tower structure is discontinued, the owner shall provide the Planning Commission with a copy of the notice to the FCC of intent to cease operations within 30 days of such notice to the FCC. If the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure will not be reused, the owner shall have 180 days from submittal of the FCC notice to the Planning Commission to obtain a demolition permit and remove the antenna or tower that will not be reused. If the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure is to be reused, the owner shall have no more than twelve (12) months from submittal of the FCC notice to the Planning Commission in which to commence new operation of the antenna or tower to be reused. Upon failure to commence new operation of the antenna or tower that is to be reused within twelve (12) months, the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure shall be presumed abandoned, and the owner shall immediately obtain a demolition permit and remove the antenna or tower that is presumed abandoned. If the owner fails to remove an antenna or tower in the time provided by this paragraph, the Planning Commission may cause the demolition and removal of the antenna or tower recover its costs of demolition and removal from the Guarantee deposited by the applicant pursuant to this section.
11. The only signs allowed shall be emergency information signs, owner contact information, warning or safety instructions, and signs required by a federal, state, or local agency. Such signs shall not exceed five (5) square feet in area.

The following terms relating to Antenna Towers, or Cellular Telecommunications are included in the Definitions (Chapter 1 Part 2): Antennas or related equipment, Cellular antenna tower, Cellular telecommunications service, Co-location, Personal communication service, Uniform application Utility

4.4.3 FENCES, WALLS AND SIGNATURE ENTRANCES

A. Fences and Walls

1. Height and Location:

- a. In the R-R, R-E, R-1, R-2, R-3, R-4, R-5, PRD, U-N, R-5A, R-5B, TNZD, R-6, R-7, R-8A, OR, OR-1, OR-2, OR-3 and OTF Districts:
 - i. Fences and walls, up to 48 inches in height in the suburban form districts and 42 inches in the traditional form districts, may be located within required front and street side yards except as provided in Figure 4.4.1.
 - ii. Fences and walls up to 8 feet in height and constructed of a solid material (masonry, wood) with an opacity of at least 80% may be located within required side and rear yards. Fences and walls with an opacity less than 80% (e.g. chain link fences) up to 6 feet in height may be located within required side and rear yards. Exception: Wrought iron fences up to 8 feet in height may be located within the required side and rear yards.
 - iii. The height of fences or walls located in a required side or rear yard shall be measured from the lowest grade within a distance of one foot on either side of the fence to the highest point of any portion of the fence.
 - iv. The total height of fences within 5 feet of a public sidewalk or roadway pavements shall be measured by adding the height of the fence and the height of the change of grade. The total height of fences more than 5 feet from a public sidewalk or roadway pavements shall be measured by measuring the height of the fence only. Refer to Figure 4.4.2 for an example of the correct method of measuring fence heights.
 - v. On double frontage lots, where one of the required front yards adjoins a major arterial, minor arterial or collector roadway, and where access is prohibited, a fence or wall may be constructed within that yard up to a height of 8 feet.

NOTE: If a fence is mandated by the Land Development Code, the finished side of the fence must face the lower intensity use. See Section 10.4.9

NOTE: Refer to Chapter 5 Part 4 for design standards applicable to fences in traditional form districts.

NOTE: It is important to check a property's deed for restrictions on fences (location, materials and general permissibility).

b. In all other zoning districts:

- i. Fences and walls in all other zoning districts shall be restricted by the maximum building height of that district except when abutting R-R, R-E, R-1, R-2, R-3, R-4, R-5, PRD, U-N, R-5A, R-6, R-7, R-8A, OR-1, OR-2, OR-3 and OTF Districts in which case a. i), ii) and iii) above shall apply.
- 2. Fences and walls not located within a required yard shall be restricted by the maximum building height of that zoning district.
- 3. Fences and walls required for swimming pools shall be a minimum height of 4 feet above grade and have a self-closing, self-latching lockable gate.
- 4. No person shall install, construct, maintain, or permit the installation, construction or maintenance of barbed wire fence or fence including barbed wire or razor wire components, partially or wholly upon property owned, occupied or controlled by such person, firm, corporation or other legal entity except in accordance with the following standards.
 - a. Razor wire is permitted only if located at all points at least 8 feet above grade level.
 - b. In residential form districts (TNFD, NFD, VFD), barbed wire fencing located less than six feet above grade level is permissible only when used to enclose livestock.
 - c. In workplace form districts (TWFD, SWFD) barbed wire and razor wire fencing is permitted, provided that paragraphs a and d of this section are met.
 - d. Fences that adjoin residentially used or zoned property in any form district may include barbed wire or razor wire only if reviewed and approved by the Planning Director or designee based on a finding of unique circumstances or exceptional security needs.
 - e. Agricultural uses are exempt from items a through d above.

B. Signature Entrances

1. Definition:

Signature entrance: Any wall(s), fence(s), guard house, or similar structures exceeding 4 feet in height, constructed at an entrance to a major single family subdivision or to a multi-family complex of ten units or more.

2. Location:

The signature entrance shall not obstruct roadside drainage or through-drainage facilities and shall allow for adequate sight distance. The Public Works Department may require that the location of the proposed signature entrance be staked in the field and reviewed prior to construction plan approval.²

Signature entrances shall not be permitted within utility or drainage easements without prior approval from the agency to whom the easement has been dedicated.

Signature entrances shall not be permitted within the right-of-way of major arterial, minor arterial or collector roadways except those collector roadways functioning as the primary entrance to the proposed development and provided that approval from the appropriate Public Works Department is obtained.

Signature entrances may be located within the right-of-way of a local or minor level street if approved by the Public Works Department.

Encroachment permits and proof of permanent maintenance must be received prior to construction plan approval for any signature entrance to be located within a right-of-way.

Prior to construction of any signature entrance within a right-of-way, an indemnity agreement must be provided by the developer or owner to the applicable government agency. Such agreement shall conform to the format approved by the Planning Commission (see attachment).

Any public agency responsible for maintenance of facilities within the right-of-way may require for any reason the removal of a signature entrance located within the right-of-way. The removal shall be done at the owner(s) expense and within 30 days from receiving a written notice.

3. Height:

The height of a signature entrance shall be measured from the ground to the highest point including columns or other ornamentation. When signature entrances are constructed on man-made berms, the berm will be considered in the overall height.

The maximum height of a signature entrance shall be 14 feet depending on the setback (see Table 4.4.1). Light fixtures and guard houses may extend an additional 4 feet (see illustrations, below).

² See appendices 1B and 1C for specific changes to this section for the Cities of Jeffersontown and Middletown.
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4. Length:

The maximum length of a Signature Entrance shall not exceed 150 feet on each side of the entrance roadway. Any structure extending beyond this length shall be considered a fence or wall and the requirements as stated in Section (B) of this regulation shall apply (see illustrations, below).

5. Proximity to Structure on Lot and Driveway:

Signature Entrances shall be constructed a minimum of 20 feet from dwellings and driveway entrances (see illustrations, below).

6. Signage on Signature Entrances

Two signs, not exceeding 15 square feet in area each, attached to the signature entrance may be provided at each entrance to the development. Refer to **Chapter 8** (Sign Regulations) for specific information.

7. Setback Requirements

Any signature entrance exceeding 4 feet in height as allowed in this section shall be setback from the right-of-way on which it fronts a distance of not less than that prescribed in Table 4.4.1. Columns, light fixtures and similar ornamentation may extend a maximum of 24 inches into this setback area. Any portion of a signature entrance, wall or fence constructed with appropriate Public Works Department approval in the right-of-way shall be exempt from the setback requirement.

TABLE 4.4.1

<i>Setback Distance from R.O.W</i>	<i>Maximum Height Allowed</i>
10'	14'
9'	13'
8'	12'
7'	11'
6'	10'
5'	9'
4'	8'
3'	7'
2'	6'
1'	5'
0'	4'

In order to mitigate the visual impact of lengthy structures on adjacent vehicular corridors and land uses, any signature entrance, fence or wall greater than or equal to 8 feet in height as allowed in this section and 100 feet in length shall have plantings adjacent to at least 50% of its exterior facade. Such plantings shall conform to the standards of variety, size, spacing and quality set forth in Chapter 10 Part 4 of this regulation. In no such case shall fences or walls extend a distance greater than 100 feet without providing a visual break in the form of evergreen shrubs spaced one plant every 4 feet or evergreen trees spaced as indicated in Chapter 10 Part 4 of this regulation, which, at maturity, will equal or exceed one-half the height of the fence or wall.

NOTE: See Section 7.1.40 and Part 11.5B, relating to Planning Commission approval of variances in conjunction with subdivision review.

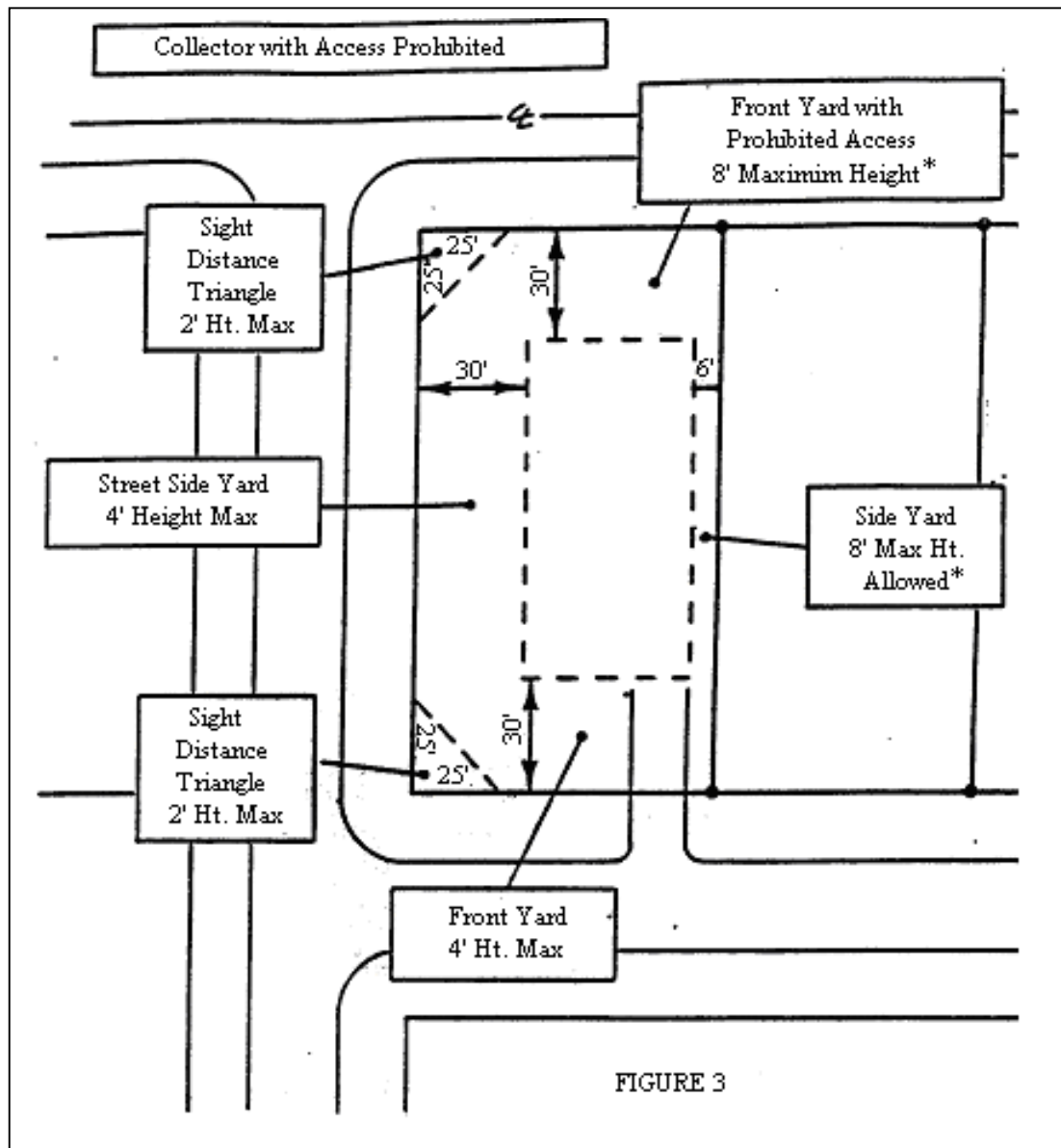
8. Dimensional Variances

Portions of this regulation that govern height or length or setback requirements may be modified by the Board of Zoning Adjustment. The Board may grant a dimensional variance after a public hearing if the requirements of KRS 100.243 are found to be met. A variance application filed simultaneous with a zoning change request or subdivision request for a given property may be granted by the Planning Commission.

9. Plan Approval Process

Signature Entrance plans shall be reviewed for compliance and approved by the Division of Planning and Design Services, as well as Public Works Department if the signature entrance is located in the public right-of-way. Signature entrance plans submitted shall bear the seal of a registered engineer, architect or landscape architect licensed to practice in the Commonwealth of Kentucky.

Figure 4.4.1

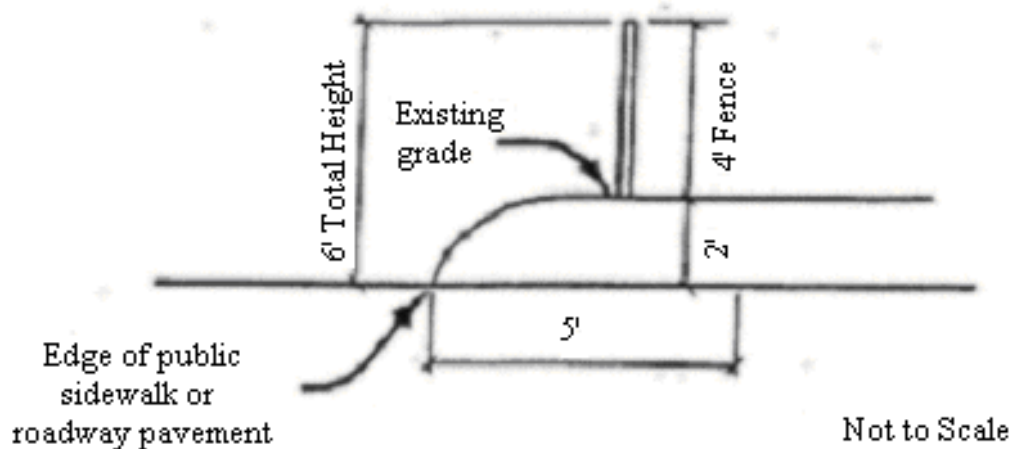


* For fences and walls constructed of solid materials or wrought iron only. Fences and walls constructed of chain link material have a 6' maximum height allowance.

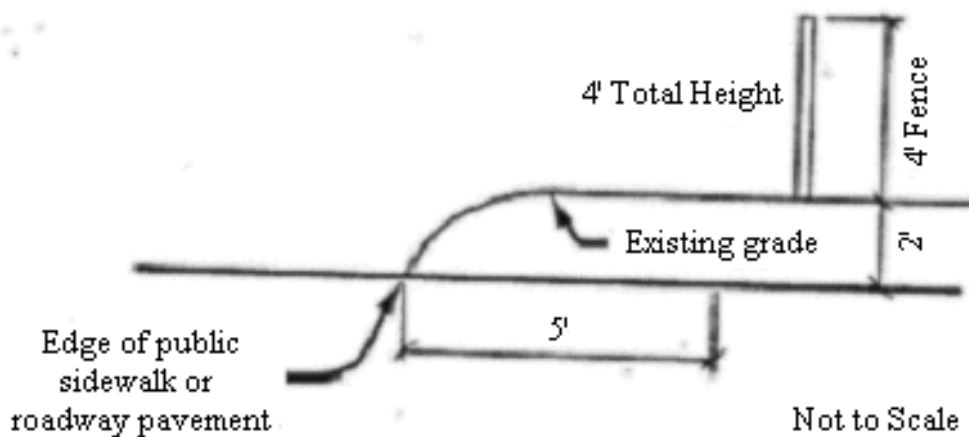
Figure 4.4.2

Example for Fence Height Measurement Standard:
Front and Street Side Yards

- A** Measure fence height within 5 feet of a sidewalk or roadway pavement like this
Total Height = 6 feet (4 feet fence + 2 feet change in grade)



- B** Measure fence more than 5 feet from a sidewalk or roadway pavement like this:
Total Height = 4 feet (measure from existing grade only)



INDEMNITY AGREEMENT

_____, hereby agrees to indemnify and hold the Greater
Louisville consolidated local government, its council, departments and agencies harmless from and against any
and all loss, damage, injury, liability and claim therefore, howsoever caused, resulting directly or indirectly from
the construction of _____

in the right-of-way of _____

Signature

Signature

4.4.4 GARAGE SALES

A. Definition:

Garage Sale: As an accessory use of residential property, the sale of goods that are no longer needed or used at the site of the sale, whether advertised in local media, by signs, or otherwise as a garage sale, yard sale, household sale, moving sale, barn sale or other sale, accomplished by direct sale; or

The sale, at the seller's place of residence, of all or part of the household goods or items, in conjunction with vacating the residential premises by the seller or the seller's estate, whether accomplished by direct sale or auction; or

Sales conducted by civic groups, school groups, church groups, charitable or fraternal organizations and other non-profit organizations if such sale is held on the organization's premises. The sale of new or used goods purchased or consigned specifically for garage sales is prohibited.

- B. No more than two garage or yard sales per calendar year, lasting no more than two days each, may be conducted on a given property.
- C. A garage or yard sale may not exceed 1,800 square feet of sales area.
- D. No garage sale item(s) may be placed in the right-of-way.
- E. All signs used to advertise or direct traffic to a garage sale must be removed within 48 hours of the conclusion of the sale.

4.4.5 HOME OCCUPATIONS³

A. Intent.

The intent of this Section is to allow an occupant or occupants of a residence located on residentially zoned property to engage in a home occupation, trade, profession or business within said residence and its accessory structure(s) provided that such an activity does not adversely affect adjacent or nearby residents or the neighborhood as a whole.

B. Employees.

1. Employees working or meeting at the home occupation site shall be limited to persons who reside in the dwelling unit except that one nonresident employee shall be permitted to be at the site at any one time.
2. The owner/operator of a home occupation may apply for a conditional use permit to allow up to two additional nonresident employees (up to three total) if the following criteria are met:

“Home Occupation”
shall mean an occupation, trade, business or profession conducted within a dwelling unit or a structure accessory to a dwelling unit by an individual or group of individuals who are residents of the dwelling unit. This use shall be clearly incidental and secondary to the primary use as a residence.

NOTE: Some subdivisions may restrict or prohibit home occupations through deed of restrictions.

³ See Appendix 1C for specific changes to this section in effect within the City of Middletown.

- a. The property on which the home occupation is located must be at least three acres in size to apply for one additional nonresident employee (two total).
- b. The property on which the home occupation is located must be at least five acres in size to apply for two additional nonresident employees (three total).

C. Exterior Appearance.

There shall be no change to the exterior appearance of the dwelling unit that houses the home occupation and there shall be no visible evidence of the conduct of a home occupation as viewed from the public-right-of-way and adjacent properties.

D. Number of Customers, Clients and Pupils Permitted.

No more than two customers, clients or pupils shall be permitted on the site at any one time except that (i) the occupant of a single-family dwelling may provide day care services for no more than eight individuals at one time; and (ii) the occupant of a single-family dwelling may provide group or professional therapy for no more than four individuals at one time. Appointments for clients must be scheduled with an allowance of time for one client or group of clients to leave before the succeeding client or group of clients arrive so as to avoid parking conflicts.

E. Signage.

No signage associated with a home occupation shall be permitted. This includes, but is not limited to, the placement of a business sign on or near the site. This shall not preclude the placement of a sign on a vehicle owned or leased by a resident that is parked on the premises in accordance with applicable regulations.

F. Parking and Deliveries.

- 1. Any parking needed to accommodate the customers, clients or pupils being served by a home occupation shall be provided off-street on the dwelling unit's existing parking area/ driveway, except as provided in (2) below. The permit issuing authority shall determine whether the site has enough parking available in the parking area/ driveway to accommodate the parking generation expected from the proposed home occupation. Driveways may not be expanded or altered in any way to accommodate the expected parking needs of a home occupation.

2. On-street parking spaces may be used to accommodate a home occupation only if the owner/operator provides the Planning Director with a parking study that meets the requirements of **Section 9.1.17** (Parking Studies) of the Land Development Code and the Planning Director finds that the use of the on-street parking spaces by the home occupation will not adversely affect adjacent or nearby residences. If the Planning Director is unable to make such a determination, he/she may forward the request to the Planning Commission or its designee for final approval.
 3. Deliveries associated with the home occupation shall not be made using tractor-trailers. No more than two commercial deliveries (e.g. UPS, Federal Express, US Postal Service Express Mail) shall be made in any 24-hour period.
- G. Permitted Locations and Maximum Size/Area.
1. The operation of home occupations shall be limited to the dwelling unit (including the basement and attached garage) and one roofed and fully enclosed accessory structure located on the site.
 2. The area occupied by home occupations shall not exceed the limits specified below. The maximum area calculation shall include the space in which the home occupation is conducted as well as any areas that the home occupation's employees, customers, clients or pupils typically use including hallways, bathrooms and kitchens, when applicable. When all or a portion of the activity associated with a home occupation is proposed to occur in an accessory structure then the floor area of that accessory structure may be included in the calculation of the residence's floor area.
 - a. A home occupation situated on a lot of less than one acre shall occupy no more than 25% of the floor area of the residence or 500 square feet in area, whichever is less.
 - b. A home occupation situated on a lot greater than one acre shall occupy no more than 25% of floor area or 1,000 square feet, whichever is less.
 3. All activities associated with a home occupation are prohibited from occurring outside of the residence and its accessory structure except as specifically permitted.
- H. Hours of Operation.
1. Any home occupation that accommodates customers, clients or pupils on the site shall not be permitted to operate between the hours of 9 P.M. and 7 A.M.
 2. No nonresident employee may work at a home occupation between the hours of 9 P.M. and 7 A.M.

I. Other Requirements.

1. No machinery, equipment, or process used or conducted in association with a home occupation shall create any noise, vibration, fumes, odors, dust or electrical interference that is detectable:
 - a. Off the lot if the home occupation is conducted in a single family dwelling unit; or
 - b. Outside the dwelling unit if the home occupation is conducted in something other than a single-family dwelling unit.
2. No equipment discernibly identified with a home occupation may be stored outside the residence unless it is located within an accessory structure. Children's play equipment associated with a day care shall be exempt from this restriction.
3. The sale of agricultural goods (e.g. flowers and vegetables) that are grown on the site shall be permitted as a home occupation as long as the other requirements of this Section are met.
4. More than one home occupation may be permitted within a dwelling unit, however the cumulative impact of the home occupations shall not exceed the maximum limits for the number of employees, number of customers, clients and pupils, parking and delivery restrictions, and maximum size/ area limits prescribed by this Section.

NOTE: Uses generally acceptable as home occupations include:

Day care facilities (7 or less individuals)
Mail Order Operations
Woodshops
Beauticians

The offices of the following professionals:

Accountants, Architects, Attorneys, Engineers, Real estate brokers, Sales and Manufacturing Representatives, Financial advisors, Insurance agents, Landscape architects Counselors, Mediators
Travel agents, Therapists, Chiropractors, Psychologists, and Psychiatrists

J. Prohibited Home Occupations.

The following uses/activities are prohibited as home occupations unless expressly permitted by other provisions of this Section. If, in the opinion of the permit issuing authority, a use or activity that is proposed as a home occupation is not specifically listed as prohibited, but has characteristics of a use or uses that are listed and could negatively impact the residential character of the neighborhood in which it is proposed, then that use/activity shall be prohibited as a home occupation. Such determinations may be appealed to the Board of Zoning Adjustment..

Any use or activity that does not meet the requirements of this Section;
 Adult Entertainment;
 Auto or Other Vehicle Sales, Service, Rental or Repairs
 (excluding minor repairs made to vehicles owned or leased
 by residents of the site);
 Bed and Breakfast;
 Daycare Facilities (except as otherwise permitted);
 Clubs;
 Dentistry;
 Drive-In Facilities;
 Eating and Drinking Establishments;
 Escort Services
 Group Instruction or Therapy with more than four students or
 clients on the premises at a time;
 Gun Dealers;
 Health Spas (excluding personal trainers / massage therapist);
 Hospitals and Clinics;
 Hotels/Motels;

 Kennels;
 Large appliance repair
 Lawn mower repair
 Machine shop
 Medical examinations or treatment (other than psychiatry as
 expressly permitted herein);
 Plasmapheresis;
 Retail Advertising;
 Retail and Wholesale Sales (except as otherwise permitted);
 Taxi or Limousine Service;
 Whole Blood Facilities;
 Manufacture of Goods;
 Distribution of Goods (excluding mail order operations);
 Storage of Goods to be Offered for Sale;
 Display of Goods

K. Registration of Home Occupations.

Prior to the establishment of any home occupation that (i) serves customers, clients or pupils at the site, or (ii) has one or more non-resident employees, the proprietor shall register the occupation. Day care centers as a home occupation shall require a home occupation registration. The registration shall not be transferable and shall not run with the land; it shall terminate upon sale or transfer of the property to a new owner or tenant. The Planning Director shall maintain records of registered home occupations.⁴ The registration form shall be the basis for determining compliance with the requirements of this section 4.4.5. Home occupation proprietors shall be responsible for updating their registration forms, at such time as their operations change from the activities described in the registration documents. Any home occupation meeting either criteria (i) or (ii) above that was established before the effective date of this Section shall have one year from the effective date of this Section to register the home occupation.

⁴ See appendix 1B for specific changes to this section approved by the City of Jeffersontown.

4.4.6 INACTIVE CEMETERIES

A. Definition:

Inactive cemetery, for the purposes of this section, shall mean any cemetery, private or family cemetery, church cemetery, or historic or prehistoric burial ground not used for interment of human remains within the last ten years.

Cemetery with undefined boundaries, for the purposes of this section, shall mean any cemetery or burial ground the limits of which are not delineated on any a map, in a written description in wills or deeds, or by a wall or fence. or specific cemetery vegetation. This term shall also apply to any burial site(s) where graves are discovered outside of defined cemetery boundaries.

NOTE: The procedure for the removal and relocation of a cemetery is set out in KRS 381.720 - KRS 381.767.

B. Requirements:

A parcel of land on which an inactive cemetery is located or an adjacent parcel of land may be used as allowed by the site's zoning classification and other applicable regulations, with the following additional restrictions:

1. **Preservation:** All existing cemeteries and burial grounds shall be preserved and maintained in accordance with applicable Kentucky Revised Statutes, Kentucky Administrative Regulations, and federal laws and regulations state law. Relocation or removal of gravesites shall occur only as specified in applicable federal, state and local laws and regulations. The Jefferson County Office of Historic Preservation and Archives shall be notified in writing by supplying to the office copies of all state and local applications and permits prior to the relocation procedure.
2. **Notification:** The applicant shall notify the Jefferson County Office of Historic Preservation and Archives and the Kentucky Historical Society of the location of any cemetery or burial ground prior to development or subdivision of the parcel.
3. In preserving a cemetery while at the same time developing a parcel, an applicant, property owner, or developer has the following options:
 - a. Transfer the existing cemetery as part of a buildable lot. Ownership and maintenance of the cemetery shall be transferred to the individual lot owner.

- b. Make the existing cemetery a separate lot permanently preserved from development of structures or other non-cemetery improvements. Ownership and maintenance of the cemetery shall be transferred by written agreement to either a subdivision Homeowner's Association, a local legislative unit, or an historical organization. A legally created transfer agreement must be finalized and executed, and a copy provided to DPDS, within 90 days of any final approval of a record plat or development plan. The Planning Commission or its designee may grant up to two thirty-day extensions for the execution of said transfer agreement. Failure to execute the agreement or provide the copy may render the final approval of a subdivision plan or district development plan null and void.
 - c. The applicant shall inform the Planning Commission which of the above listed options they choose to pursue prior to approval of any development or subdivision.
- 4. Building Setbacks
 - a. For cemeteries with defined boundaries (such as a wall or fence), all buildings and structures other than fences and walls shall be set back at least 30 feet from the perimeter. Land disturbance within 30 feet of the perimeter except as described in number 6 below shall not be allowed. Prior to initiating any site disturbing activities and for the duration of the site preparation and construction processes, the 30-foot buffer area shall be delineated by installation of temporary fencing so as to be readily identifiable.
 - b. For cemeteries with undefined boundaries, the Commission may require certification of a cemetery with undefined boundaries by an archaeologist (as defined in 36 CFR Part 61). Documentation of acceptance of the cemetery boundaries by the Historic Landmarks Commission or delegated staff persons shall be provided for Planning Commission and building permit agency files prior to initiation of any site disturbance activities. After the boundary has been approved, all buildings and structures other than fences and walls shall be set back at least 30 feet, or another distance set by the Jefferson County Historic Landmarks Commission.

5. Security: Existing cemetery fences and walls shall be maintained and repaired. The property owner or developer is required to erect a new permanent enclosure (if one does not exist) surrounding the cemetery. For cemeteries with undefined boundaries, the location of the fence shall be established in accordance with procedures acceptable to the Jefferson County Historic Landmarks Commission. The new permanent fence shall be made of a material compatible with the character of the existing cemetery and surrounding residences. If a portion of an original wall or fence remains, and it is a compatible material (e.g. stone, brick, cast iron, wooden picket) the permanent fence or wall shall be properly repaired using the same material. If the existing fence is an inappropriate material (e.g. barbed wire or farm fence), it shall be replaced with a new fence of an appropriate material. Although the permanent fence must be erected as soon as practical, a temporary fence must be erected and maintained at all times during site development and construction. The Jefferson County Historic Landmarks Commission shall be responsible for determining the appropriateness of materials.
6. Maintenance: Existing cemetery planting or foliage shall be pruned and generally left in its natural state. The Jefferson County Historic Landmarks Commission shall be responsible for determining the appropriateness of landscaping used in and immediately surrounding all inactive cemeteries. Cemeteries shall be maintained both during site development and after construction is complete in accordance with Chapter 96 of the Jefferson County Code of Ordinances.
7. Public access shall be provided and permanently maintained to an existing cemetery with a minimum 15-foot recorded ingress-egress access easement.
8. A statement by the property owner, applicant, or developer shall be made on the site plan or subdivision plan regarding permanent cemetery ownership and maintenance. This information shall also be included on a Final Plat for a subdivision if recorded after the effective date of this regulation.
9. A deed restriction in a form approved by the Planning Commission legal counsel shall be recorded acknowledging the location, site, ownership, and maintenance of a cemetery.
10. Yard Requirements: No area occupied by graves may be counted toward the area required for front, side, street-side or rear yard requirements.
11. If human remains are discovered during the excavation or development of a site the applicant shall immediately cease excavation activities and notify the Jefferson County Coroner and the Jefferson County Historic Landmarks Commission.

4.4.7 MINOR EARTH EXCAVATIONS

- A. On land in any zone, at the option of the property owner, a minor earth excavation not constituting a quarry, borrow pit or commercial operation, and/or filling of land with non-combustible, inorganic materials may be performed without a conditional use permit where all of the following conditions are met and agreed to:
1. The operation is performed in compliance with a plan which has received approval of the agency responsible for surface drainage/storm water drainage and from the Planning Director of the agency that provides staffing to the Planning Commission which may include provisions relating to bonding, remedies for violations, and correction of problems not anticipated at the time of approval. Approval by the responsible governmental officials shall be based on a finding that the plan complies with the Erosion Prevention and Sediment Control ordinance and that it will not likely result in unreasonable inconvenience, annoyance, or harm of any nature to the public, nearby property, or environmental features (i.e. karst features, streams) because of circumstances associated with the area or the operation.
 2. Earthfills shall be permitted when the volume does not exceed 1,500 cubic yards for each acre to be filled or 250 total cubic yards of fill material, whichever limit is less restrictive. Excavations shall be permitted when the volume does not exceed 750 cubic yards of excavated material for each acre excavated or 100 total cubic yards of excavated material, whichever limit is less restrictive. An earthfill or excavation which exceeds the restrictions of this paragraph may be permitted if the earthfill or excavation is for a foundation of a structure or structures or other development which has (have) received all necessary Planning Commission, Board of Zoning Adjustment, and other government approvals and permits.
 3. The filling or excavation shall be completed and the area involved shall be stabilized and re-vegetated in accordance with the approved plan within nine (9) months of approval of the plan. Refer to [Chapter 4 Part 12](#) Erosion Prevention and Sediment Control for specific site stabilization standards.
 4. Fill materials are limited to clean (or uncontaminated) sand, clay, silt, gravel, soil, or other non-polluting, inorganic, non-combustible material approved by the Metropolitan Sewer District or successor.
 5. Failure to comply with the approved plan or the violation of any order of any reviewing governmental official relating to the operation shall constitute a violation of these regulations resulting in the imposition of penalties set out in [Part 11.10](#) in addition to all other appropriate remedies agreed to in the plan or otherwise allowed by law.

This exception is made primarily for the purpose of reducing frequently unnecessary delay caused by the strict enforcement of [Section 4.2.22](#), and the exclusive remedy for any property owner complaining of an action or order of a reviewing governmental official relating to the operation shall be to seek a conditional use permit from the Board of Zoning Adjustment in accordance with [Section 4.2.22](#).

4.4.8 OUTDOOR SALES, DISPLAYS AND STORAGE

The intent of this Section is to provide for the appropriate location and design of outdoor sales, display and storage areas and to mitigate any adverse impacts that such uses may have on adjacent properties and rights-of-way.

A. Definitions.

Outdoor Sales and Display is the placement of any items(s) outside a building in a nonresidential zoning district for the purpose of sale, rent or exhibit. (This shall not include outdoor dining and seating areas associated with a restaurant.)

Outdoor Storage is the keeping or stockpiling of any item(s) outside a building in a non-residential zoning district that is not directly accessible by the general public for more than twenty-four hours. The placement of moveable containers, including semi trailers and containerized freight boxes, for the purpose of storage of inventory on a temporary basis (not to exceed two months in any calendar year) shall be considered outdoor storage.

Screened from View shall mean either visually continuous plantings, a solid fence, wall or earth mound, or a combination of such elements that provide a barrier with an average height of one foot above the material being screened, except that said screening shall not be required to exceed eight feet in height. All screening material shall meet the criteria stated in [Chapter 10](#) of the Land Development Code in terms of quality and design.

- B. Outdoor sales, display and storage shall be permitted in the C-1, C-2, C-M, EZ-1, M-2, M-3 and PEC zoning districts only when the requirements of this Section are met.
- C. Outdoor sales, display and storage shall be permitted in the C-1, C-2 and C-M zoning districts as well as commercial uses permitted within the M-2, M-3, EZ-1, and PEC zoning districts only when the following standards are met.
1. Outdoor Sales and Display Standards:
 - a. Outdoor sales and display may be permitted within an area not greater than 800 square feet or 10% of the ground floor area of the building, whichever is greater, and shall be located at least 25 feet from any residentially used or zoned property.

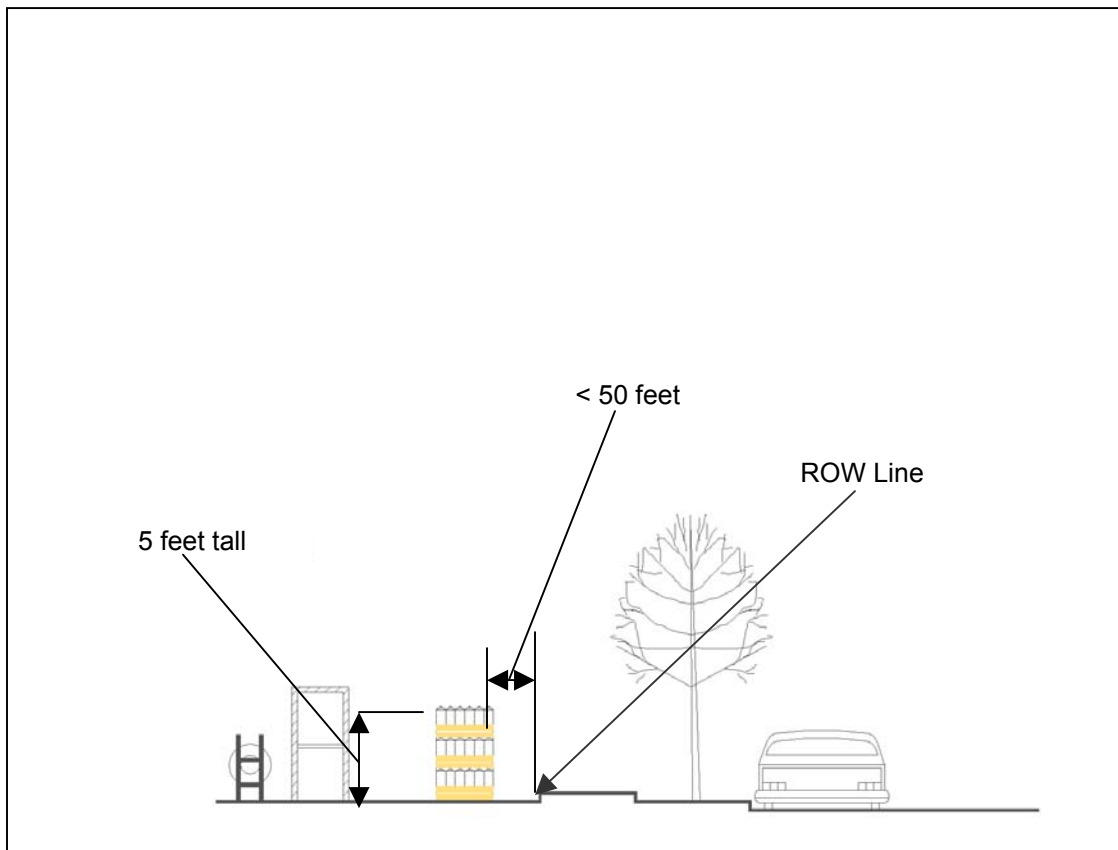
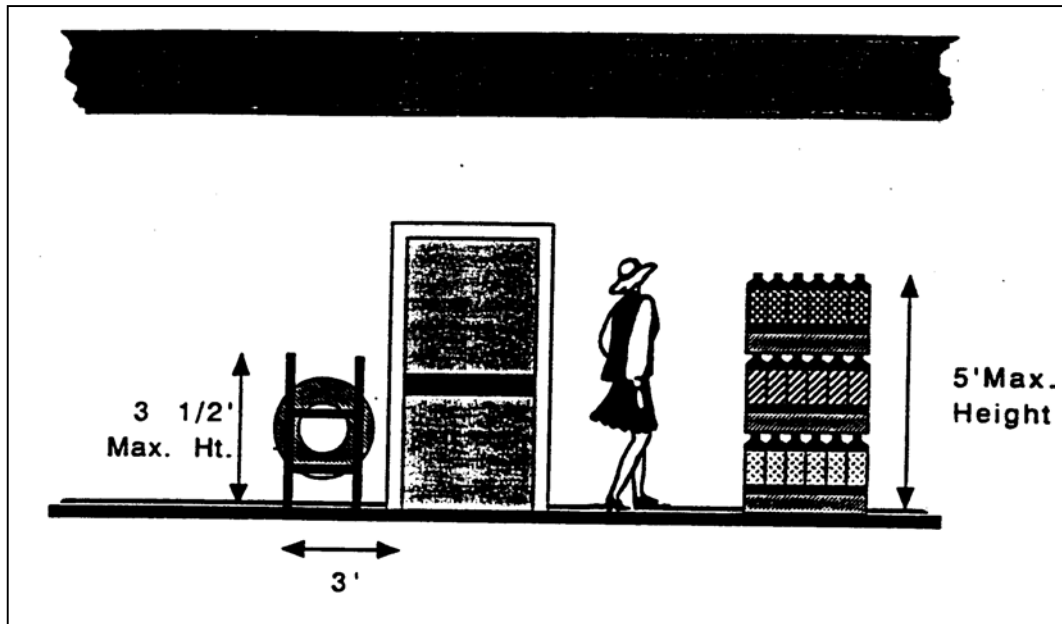
- b. When outdoor sales and display occurs within 25 feet of a public right-of-way, item(s) shall not exceed 5 feet in height and shall be *screened from view* from the public right-of-way.
 - c. Stacked items located less than 50 feet from a public right-of-way shall not exceed 5 feet in height. Any material within 3 feet of any building entry shall not exceed 3.5 feet in height. (see illustration, below)
 - d. Vending and ice machines shall be permitted outside of the building when located against and parallel to the building facade. These items shall count towards the total outdoor sales and display area permitted by this Section. Vending machines shall include newspaper, beverage, food, or snack dispensers. Public telephones and mailboxes are excluded from this regulation.
 - e. Outdoor sales and display of items shall be located on a “hard and durable” surface as defined by Metro Public Works Standards.
2. Outdoor Storage Standards:
- a. Outdoor storage may be permitted in areas that are designated for employees only and made inaccessible to the general public by means of a fence, wall or other permanent, secured enclosure or in areas that are set back a distance of not less than 50 feet from any public building entry, parking lot, pedestrian facility or similar publicly used area.
 - b. Outdoor storage shall not occur within 25 feet of any public right-of-way.
 - c. Outdoor storage shall be *screened from view* from any abutting property.
 - d. Moveable storage containers including semi trailers and containerized freight boxes, for the purpose of storage of inventory on a temporary basis, shall meet the following requirements in addition to the other provisions of this Section:
 - i. Containers shall be allowed on the site only in accordance with a permit issued by the building permit issuing authority. A copy of the permit shall be kept on the site and shall be available for inspection.
 - ii. The use of containers on the site shall be allowed for no more than two months in any 12- month period.
 - e. Outdoor storage of new or used tires shall meet the following standards:

- i. Tires shall be stored in compliance with applicable public health regulations.
 - ii. Outdoor tire storage shall not occupy an area greater than 300 square feet, unless a conditional use permit (4.2.44) has been granted.
 - iii. Tires stored outside shall be neatly stacked; no stack shall be higher than 8 feet.
 - f. All items stored outside shall be placed on a “hard and durable” surface as defined by Metro Public Works Standards.
- D. The following uses are exempt from the requirements set forth in (C) of this Section as follows:
- 1. Areas designated for the outdoor sale, display or storage of plant material including live plants, fruits and vegetables and seasonal holiday related plant materials such as Christmas trees and pumpkins. This exemption does not include rock, mulch, pavers, landscape timbers and similar building materials.
 - 2. Sale, display or storage areas for either automobile, boat and similar passenger or recreational vehicles or truck/trailer rentals which have met applicable vehicular use area screening and buffering requirements as set forth in **Chapter 10** of the Land Development Code.
 - 3. Retail operations that occur under a permanent canopy structure.
- E. The following standards shall apply to all outdoor sales, display and storage.
- 1. Any area proposed to be used for outdoor sales, display or storage in accordance with this Section shall be accurately delineated on the applicable development plan.
 - 2. No outdoor sales, display or storage shall be allowed in areas set aside, required, or designated for driving aisles, driveways, maneuvering areas, emergency access ways or vehicular parking necessary to meet the minimum number of off-street parking spaces as specified in this section and in **Chapter 9** of the Land Development Code.

NOTE: The 4-foot unobstructed path complies with current ADA standards.

3. Outdoor sales, display or storage items, including newspaper boxes, may be located on sidewalks in the public right-of-way only if permitted by the Director of Works. Such items shall be permitted on privately owned walks or other areas intended for pedestrian movement provided an unobstructed, continuous path with a four foot minimum width is maintained. Materials located at the edge of a pedestrian way adjacent to a driving aisle shall not extend along that edge a distance for more than ten feet without providing a break of not less than three feet in width to allow for access on to the pedestrian way.
4. Items for outdoor sale, display or storage shall be *screened from view* from any abutting residentially zoned or used property. A property shall not be considered residentially used if the first floor is occupied by a nonresidential use or uses.
5. No outdoor sales, storage or display areas shall be located in the sight distance triangle as defined in **Chapter 5 Part 1** of the Land Development Code or located in any manner that would restrict or limit adequate sight distances for interior vehicular traffic movement as determined by the Works Department.
6. One additional parking space shall be required for each 500 square feet of outdoor sales and display area unless more specific parking requirements are provided in **Chapter 9 Part 1** of the Land Development Code.
7. Any product located outdoors in a manner constituting a sign as defined in **Chapter 1** of the Land Development Code must conform to the requirements set forth in **Chapter 8**.
8. No outdoor sales, display or storage shall be allowed within 30 feet of the right-of-way of any designated Parkway, Olmsted Parkway or Scenic Corridor or within any required parkway or scenic corridor buffer area.
9. Uses conducting outdoor sales, display, or storage in a manner not permitted by this Section may be cited in accordance with **Chapter 11** (Enforcement) of the Land Development Code. If a use is cited for non-compliance and said use desires to continue outdoor sales, display or storage activities in compliance with the requirements of this Section, then a site plan showing areas in which outdoor sales, display or storage will be conducted on the site in accordance with this Section shall be required. The site plan shall be drawn to scale and shall indicate portions of the lot beyond which outdoor sales, display and storage shall not be conducted, and shall indicate the locations of permanent structures and other features to allow ready determination of adherence to the site plan. After the plan has received approval by the Planning Commission staff, the site plan shall be maintained at the business location and shall be available for review at time of inspection.

10. When the requirements of this Section differ from other provisions of the Land Development Code, the more stringent standard(s) shall apply.



4.4.9 REFUSE DISPOSAL CONTAINERS

- A. No refuse container shall be located in any required vehicular use area, or in any required buffer or landscape area.
- B. When located on a non-residentially used parcel adjoining a residential use, refuse containers shall be opaquely screened from view from public streets and adjacent properties to a height of at least 6 feet, or 6 inches higher than the height of the container (whichever is higher). This screening may be achieved by walls, landscaping or buffer yards, or by virtue of the location of the container on the building site.

4.4.10 SWIMMING POOLS

- A. A private swimming pool shall not be constructed in any required front, street side, or side yard.
- B. Private swimming pools, as well as any building or structures which accompany the pool (pool house, deck, etc.), must conform to all setback and area requirements as stated in the Accessory Uses section of the appropriate form district.
- C. A private in-ground or above-ground swimming pool may be constructed in a required rear yard in excess of the maximum coverage as specified in the appropriate form district, provided such pool shall be no closer than five feet to any property line.
- D. Private swimming pools in any location shall be enclosed by a continuous barrier such as a building wall or by a fence at least 48 inches in height, with a self-latching gate. Above ground pools with a vertical barrier of at least 48 inches that are made inaccessible by removal of the ladder or similar measure are allowed without a fence.
- E. Any buildings or structures in conjunction with a pool shall be classified as accessory buildings unless they are part of the main building.

(Not in effect within the City of Jeffersontown and City of Middletown, see appendices 1B and 1C respectively for details)

Commentary: This section provides incentives for developers who provide open space, housing that reinforces income diversity, and other community benefits in keeping with the goals of Cornerstone 2020. In brief, in return for these community benefits, this section will permit developers to reduce lot sizes in subdivisions and more closely approximate the allowable density under the applicable zoning district regulations. The greater the benefits offered, the higher the density allowed, within the limit established by the site's zoning classification.

The following terms relating to Alternative Development Incentives are included in the Definitions (Chapter 1 Part 2):

Adjacent, Diversity Housing Unit, Brownfield, Clubhouse, Community Center, Low-moderate Income, Major transit corridor, Qualified Buyer, Qualified Buyer Verification Form.

4.5.1 Purpose

The intent of these alternative development incentives is to foster residential development in furtherance of the Cornerstone 2020 Plan. This section sets forth a menu of development incentives that, while maintaining current zoning district densities, allows reduction of lot sizes in return for provision of open space, housing diversity, preservation of cultural resources, and efficient land use (building near major transit corridors and building on brownfields) in larger residential developments. This regulation implements the following portions of Cornerstone 2020:

Community Form Goals and Objectives C1, C2, C2.6, C2.7, C3, C3.1, C3.2
Community Form Goals and Objectives K1, K1.2, K2, K2.1
Livability Goals and Objectives F1, F1.2, F2, G1, G1.3
Guidelines 3, 4 and 5.

4.5.2 Applicability and Maximum Residential Density

Residential subdivisions located in the R-4 or R-5 Single Family Zoning District that create five or more lots in accordance with the procedures for major subdivisions and provide at least ten percent of Level 1 or 2 Diversity Housing as defined herein, are eligible for the incentives set forth in this section, unless the subdivision is located in a Qualified Neighborhood A, in which case, at least ten percent of any level of Diversity Housing shall be provided. The number of dwelling units created in accordance with this regulation may not exceed the number which is theoretically possible according to the rules of the applicable zoning district. The maximum is determined by multiplying the total site acreage by the applicable maximum density (dwelling units per acre) listed in Table 4.5.2. Proposed developments or portions thereof located more than one mile from a major transit corridor or an existing major or minor arterial classification roadway shall not be eligible for maximum gross densities to exceed 4.0 dwelling units per acre in the R-4 zoning district and 5.8 dwelling units per acre in the R-5 zoning district. The distance shall be measured using a straight line from the arterial or transit corridor street centerline.

If the proposed development falls partially within and partially outside one mile of an arterial or transit corridor, measured as described above, the maximum density of the development shall be calculated as follows:

R-4 District: the percentage of land in the development that lies within the one mile distance multiplied by 4.84, plus the percentage of land that is outside the one mile distance multiplied by 4.0.

R-5 District: the percentage of land in the development that lies within the one mile distance multiplied by 7.26, plus the percentage of land that is outside the one mile distance multiplied by 5.8.

4.5.3 Basis for Incentives

- A. Common Open Space:** In order to qualify for reduced lot areas based on common open space the subdivision shall provide open space that is permanently preserved from development in open space lots, and meets applicable provisions of the Open Space Standards (Part 10.5). If a subdivision is located in a form district that requires provision of open space, the amount of required open space shall not be considered in determining the basis for incentives. Open space areas that do not abut a public or private street shall measure no less than 50 feet in any dimension, to qualify for this incentive.
- B. Public Open Space:** In order to qualify for reduced lot area based on public open space the subdivision shall provide open space that is permanently preserved from development in open space lots, accessible to the general public and meets applicable provisions of the Open Space Standards (Part 10.5). If a subdivision is located in a form district that requires provision of open space, the amount of required open space shall not be considered in determining the basis for incentives. Open space areas that do not abut a public or private street shall measure no less than 50 feet in any dimension, to qualify for this incentive.

Urban League and the Housing Partnership are current examples of home ownership counseling programs.

- C. Diversity Housing Levels 1 and 2:** In order to utilize Alternative Development Incentives, proposed subdivisions shall provide a minimum of ten percent of Diversity Housing units at Level 1 or Level 2, unless the development is located in a Qualified Neighborhood A. Level 1 units shall be sold for a total price no greater than 2.5 times the current low-moderate income limit for a given household size; Level 2 units shall be sold for a total price no greater than 2.75 times the current low-moderate income limit. Subdivision lots intended for Level 1 or 2 units shall be identified at the time of submittal of the subdivision preliminary plan. Lots shall be identified in a manner adequate to determine their location and calculate the incentive. The location of lots sold for Level 1 or 2 units may vary from those identified on the preliminary plan, however, the developer/owner shall be responsible for submitting an update report at 6-month intervals from the date of the recording of the record plat until the number of lots designated as Level 1 or 2 units have been sold. The update report shall identify the name of the recorded subdivision, the plat book and page number of the record plat, the actual lot numbers sold for Level 1 or 2 units, the name of the buyers, the type of units (detached unit/patio home/townhouse), the number of bedrooms, and the sale price of units. With the update report, the developer/owner shall submit deeds or other appropriate documentation and Qualified Buyer Verification Forms for all lots utilized to fulfill this incentive.

“Add-Ons” that increase the sales price of Diversity Housing units beyond the stated price limits are not permissible.

Level 1 and 2 units must initially be sold to a Qualified Buyer. Dwellings constructed on such lots shall be sold to the initial occupants at a price no greater than the diversity housing price limit in effect at that time [see Part 1.2, Definitions.]. Subsequent sale of the diversity units does not require any qualification of the buyers.

The Housing Authority and non-profit home ownership counseling programs that have registered with the Commission shall be notified by DPDS staff about the Level 1 and 2 diversity units at the time of submittal of the preliminary subdivision plan

- D. Diversity Housing Levels 3 and 4:** In order to encourage subdivision developments to offer a mixture of housing prices, developments that include Level 3 and 4 housing units may qualify for reduced lot area under these regulations. Level 3 units shall be sold for a total price no greater than 3.0 times the current low-moderate income limit for a given household size; Level 4 units shall be sold for a total price no greater than 3.25 times the current low-moderate income limit. Lots intended for diversity housing units shall be identified on the subdivision preliminary plan, and an update report submitted at 6-month intervals, as described in Item C. above.

NOTE: *Reduced filing fees are recommended for subdivisions with 20% or more diversity units.*

- E. Qualified Neighborhoods:** Qualified Neighborhood A includes those census tracts defined by the most recent census as having more than 20% of households below poverty level. New developments or re-developments in Qualified Neighborhood A that build houses priced at the Level 3 or higher shall be eligible for incentives under these regulations, without having to provide any Level 1 or 2 units.

Qualified Neighborhood B includes those census tracts defined by the most recent census as having the median household income at 150% or greater of the median household income for Jefferson County. New developments or re-developments in Qualified Neighborhood B that build diversity units shall be eligible for incentives under these regulations.

The applicant shall submit appropriate census data information with applications that request incentives for this item.

F. Preservation of Cultural Resources: In order to qualify for reduced lot area based on preservation of cultural resources, the subdivision shall permanently protect and maintain a qualifying resource. Qualifying resource includes historic properties and archeological sites listed in the National Register of Historic Places; sites determined to be eligible for the National Register; and property surrounding National Register/eligible sites the preservation of which is determined by the Louisville Metro Historic Landmarks Commission to contribute to the site's historic value. The Historic Landmarks Commission shall review the proposal prior to approval of the preliminary plan. At the time of recording the plat, the developer shall grant a conservation easement or other means to ensure permanent protection and maintenance, in a form and to a recipient acceptable to the Historic Landmarks Commission, the Planning Commission legal counsel, and the recipient.

G. Efficient Land Use: In order to utilize existing infrastructure, stabilize existing neighborhoods, and shorten the distance between homes and jobs, developments near major transit corridors and in brownfields may qualify for reduced lot area under these regulations.

- 1. Major Transit Corridors:** Developments or portions thereof that are within 3/4 mile of a major transit corridor may qualify for reduced lot area points. The distance shall be measured by the shortest walking distance from the transit corridor to each lot created under these incentives.
- 2. Brownfields:** Development on brownfields may qualify for reduced lot area points. In order to qualify for reduced lot area, the applicant shall demonstrate that environmental degradation of the proposed development site has been remediated to a level appropriate for residential use, as indicated by issuance by the Commonwealth of Kentucky of a covenant not to sue.

NOTE: *Reduced filing and processing fees for developments in brownfields under these regulations are recommended.*

H. Future Roadway Accommodation: Land dedicated for right-of-way for future roadways shown in the Comprehensive Plan, the six-year plan, or an approved road alignment study, and with approval from Louisville Metro Director of Works, shall be eligible for incentive points. For purposes of calculating incentive points, the area dedicated as right-of-way may be combined with common or public open space lands. Right-of-way dedication for widening of existing roads in accordance with Table 6.2.1 shall not qualify for incentive points.

4.5.4 Review Procedure

Any proposal for a major subdivision meeting the criteria established in this section shall be granted a reduction in minimum lot size and setback requirements as established in the applicable form district; maximum gross density shall not exceed the limits established in Table 4.5.2. The review procedure shall be in accordance with Chapter 7 (Subdivision Regulations).

4.5.5 Maximum Gross Density

Proposed subdivisions shall receive points based on the criteria set forth in Table 4.5.1. Points shall be totaled to calculate the maximum gross density as set forth in Table 4.5.2. Sites that qualify for less than 3 points are not entitled to any alternative development incentive. Gross density shall be interpolated for sites that qualify for 3.5 through 14.5 points.

4.5.6 Compatibility with Adjacent Residential Development

Reduced size lots authorized by this section shall be designed and located so that impacts on adjacent previously approved residential development are minimized. To achieve this purpose, proposed subdivisions with reduced size lots shall meet each of the following design standards applicable to a given site.

- A. Proposed subdivisions with reduced size lots that are directly across a public right-of-way or private access easement from a recorded subdivision or single family residential structures having an average front or street side yard with a variation in depth of not more than 10 feet shall meet the following standard: Building limit lines shall be recorded for those parcels across the street/access easement from existing development that equal the average dimensions of established front and street side yards of the existing development.
- B. Perimeter parcels of the proposed development that are adjacent to property zoned for residential use shall comply with one of the following:
 - 1. The perimeter parcels shall be developed with detached single family homes meeting the minimum lot size and dimensional requirements of the underlying zoning/form district; or
 - 2. The applicant submits a written consent on an approved form supplied by Planning and Design Services signed by each adjacent property owner agreeing to an alternative standard, said form shall be signed after the neighborhood meeting required by Section 7.2.10 is held; or
 - 3. The adjacent property is developed with an intensity greater than or equal to the perimeter parcels; or
 - 4. A buffer area shall be provided on the perimeter parcel consisting of one of the following:
 - a. A 75 foot wide open space lot; or

- b. A 40 foot wide open space lot planted with 2 staggered rows of trees, a mixture of 2/3 canopy trees and 1/3 evergreen trees, with trees in each row placed no more than 20 feet apart, or other planting plan using the same quantity and type of trees and approved by DPDS staff; or
- c. A 50 foot wide area containing an existing woodland or tree stand, designated as a Woodland Protection Area.

In conjunction with b. and c. above, a minimum 20 foot building limit setback shall be provided on the adjacent buildable residential lots.

4.5.7 Wastewater Treatment Requirement

Any lots approved pursuant to this section that are less than five acres shall be developed only if served by a wastewater treatment facility approved by the Health Department or other agency having approval authority.

4.5.8 Housing Types/Minimum Lot Size and Dimensional Requirements

Housing types and minimum yards for dwellings constructed are defined in the applicable form district regulation (see [Section 5.2.2 D](#) (Traditional Neighborhood) or [Section 5.3.1 D](#) (Neighborhood)).

4.5.9 Required Outdoor Recreation Open Space

Developments containing detached and semi-detached units on lots less than 6000 sq. ft. in the R-4 District or lots less than 4000 sq. ft. in the R-5 District shall provide Outdoor Recreation Open Space within the development. The amount of Outdoor Recreation Open Space required by this section shall be calculated as follows:

- R-4: 1500 sq. ft. for each lot less than 6000 sq. ft.
- R-5: 1000 sq. ft. for each lot less than 4000 sq. ft.

TABLE 4.5.1—COMMUNITY BENEFITS

Chapter 1 BENEFIT	POINTS PO
<i>Open Space: Neighborhood Form*</i>	
Minimum of 20% of land set aside for common or public open space, or	1.5
Minimum of 30% of land set aside for common or public open space, or	2.5
Minimum of 40% of land set aside for common or public open space, or	3
Minimum of 50% of land set aside for common or public open space, or	3.5
<i>Open Space— Traditional Neighborhood Form*</i>	
Minimum of 5% of land set aside for common or public open space, or	1
Minimum of 10% of land set aside for common or public open space, or	1.5
Minimum of 20% of land set aside for common or public open space	2.5
<i>Diversity Housing Level 1 and 2</i>	
At least 10% but less than 15% of units are Level 1 or 2, or	3
At least 15% but less than 20% of units are Level 1 or 2, or	4.5
20% to 50% of units are Level 1 or 2, or	5.5
Over 50% of units are Level 1 or 2	3.5
Additional credit if at least 50% of these diversity units restricted to the Level 1 diversity housing price range ⁴	**

*Land dedicated for future roadway accommodation, in combination with open space land or solely for right-of-way, qualifies for incentive points as listed here for open space.

** 50% of above listed, Diversity Housing Points as additional credit.

Additional credit if 30% to 50% of Level 1 or 2 units are developed as detached single family units, or	2
Additional credit if over 50% of Level 1 or 2 units are developed as detached single family units	3
Chapter 2 Diversity Housing Level 3 and 4	
Chapter 3 At least 10% but less than 20% of units are Level 3 or 4 units, or	2
20% to 50% of units are Level 3 or 4 units, <u>or</u>	2.5
Over 50% of units are Level 3 or 4 units	2
Additional credit if at least 50% of these diversity units are restricted to the Level 3 diversity housing price range	1
Qualified Neighborhoods	
Development is in a Qualified Neighborhood <u>A</u> and at <u>Level 3</u> housing price or higher	3.5
Development is in Qualified Neighborhood B and qualifies for points for providing Level 1 or 2 housing, or	2
Development is in Qualified Neighborhood B and qualifies for points for providing Level 3 or 4 housing	1
Protection of Cultural Resources	
Chapter 4 Preservation of Historic Resource	2
Preservation of significant additional property surrounding a Cultural Resource that enhances its cultural value, as determined by the Historic Landmarks and Preservation District Commission	2
Efficient Land Use	
Near major transit corridor	2.5
Brownfield site	6

For purposes of illustration, the Jefferson County income limits and housing price limits for 2004 are as follow:

	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms
Low-moderate Income (80% of Median)	\$37,250	\$41,990	\$46,550	\$50,300
Level 1 House Price	\$93,130	\$104,750	\$116,380	\$125,750
Level 2 House Price	\$102,440	\$115,230	\$128,010	\$138,330
Level 3 House Price	\$111,750	\$125,700	\$139,650	\$150,900
Level 4 House Price	\$121,060	\$136,180	\$151,290	\$163,480

Note: Low-moderate income levels for the Louisville MSA are updated annually. This information is available from the US Department of Housing and Urban Development website. Refer to Section 8 income limits as posted at www.huduser.org/Datasets.

Table 4.5.2 Maximum Permitted Gross Density*

Zoning District		3 pt	4 pts	5 pts	6 pts	7 pts	8 pts	9 pts	10 pts	11 pts	12 pts	13 pts	14 pts	15 pts
R-4		3.3	3.4	3.5	3.6	3.7	3.8	3.9	4.0	4.1	4.2	4.4*	4.6	4.84
R-5		4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0	6.2	6.5*	6.8	7.26

* Portions of proposed developments located more than one mile from a major transit corridor or an existing major or minor arterial classification roadway shall not be eligible for maximum gross densities to exceed 4.0 dwelling units per acre in the R-4 zoning district and 5.8 dwelling units per acre in the R-5 zoning district utilizing the Alternative Development Incentives. The maximum permitted density in developments located partially within and partially outside the one mile distance is set forth in Section 4.5.2.

This part is intended to provide a standard procedure for identification of constraints when development is proposed on sites having environmental constraints, and to provide a means to ensure compliance with this chapter's environmental protection standards.

4.6.1 Applicability & Exemptions

A. Applicability

Except as exempt under subsection B. below, this part shall apply to all land disturbing activities.

B. Exemptions

This part shall not apply to the following development activities:

1. The redevelopment of sites with environmental constraints including reconstruction of an existing building that:
 - a. Existed on such site on March 1, 2003; and
 - b. Does not increase the amount of impervious surface coverage that existed on March 1, 2003; and
 - c. Does not entail a change in use for which a conditional use permit for potentially hazardous uses is required.
2. Addition of accessory structures, or alteration of the ground surface (cutting, filling, grading) associated with landscaping, installation of walks or driveways, or similar activities on sites developed with a principal structure built prior to March 1, 2003.
3. Clearing and other activities required for surveying and preliminary site investigation, conducted in accordance with a Site Disturbance Permit issued in accordance with the Erosion Prevention and Sediment Control ordinance.
4. Maintenance of roads and utility lines.
5. Expansion of an existing residential structure by less than 50% or of a non-residential structure by less than 10%.
6. Construction on existing lots shown on preliminary plans approved between August 7, 1997 and March 1, 2003.

4.6.2 Determination of Sites with Environmental Constraints

A. Identification of Environmental Constraints

1. Applications for land disturbing activities not exempted in 4.6.1 shall include a checklist indicating the presence or absence of the following features on the site to be developed:
2. Local regulatory conveyance zone/regulatory flood plain as defined by local ordinance.
3. Protected waterways subject to the protection standards in **Chapter 4 Part 8** "Waterways & Wetlands Protection."
4. Lakes and impoundments of one acre or greater.
5. Wetlands with a surface area of 0.1 acre or greater and subject to the protection standards in **Chapter 4 Part 8**, "Waterways & Wetlands Protection."
6. Karst features subject to subject to development restrictions as defined in **Chapter 4 Part 9**.
7. Steep slopes 20% or greater.

NOTE: Part 4.9 is reserved; it will be drafted as part of the next phase of the Land Development Code.

Unstable soils as determined by the Natural Resources Conservation Service and depicted on Core Graphic 5.

The presence of any of these environmentally constrained features shall be confirmed by reference to the best available federal, state, or county mapping and resources (e.g., floodplain or LOJIC maps) as determined by the Planning Director, or as confirmed by a site-specific survey conducted by a qualified professional.

B. Determination of Sites with Environmental Constraints.

A development site that contains one or more of the environmentally constrained features listed in paragraph A, above, shall be designated a "Site with Environmental Constraints."

C. Approval Required.

The Planning Director, or designee, shall approve all determinations of sites with environmental constraints. The Director may require a site-specific survey if the Director determines that the magnitude of the development, its potential environmental impacts, or inadequacy of the best available mapping justify more detailed identification of constrained areas.

4.6.3 Designation of Limits of Disturbance**A. General**

For sites with environmental constraints, the applicant shall establish, on each preliminary and final subdivision plat and on each site development plan, proposed building envelopes and the limits of site disturbance in relation to environmentally constrained features. The limits of site disturbance shall include the specific area(s) of a lot, lots, or development site within which the proposed development (including buildings, accessory structures, parking and driveways) may be constructed and within which all development activity, including grading, cutting and filling shall be contained.

B. Final Plans and Record Plats

Approved site disturbance limits shall be shown on the preliminary and final subdivision plats and/or on the development plan for each lot or development site.

4.6.4 Compliance with Applicable Regulations**A. General**

Land disturbing activity occurring on or within an environmentally constrained feature or within a buffer area associated with such feature as established by this Land Development Code, including any construction, subdivision, clearing or grading activities, unless exempted by 4.6.1.B, shall be permitted only in compliance with regulations applicable to said constrained feature.

B. Standards For Protection During Construction.

Site disturbance limits shall be designated in the field prior to commencement of excavation, grading, or construction with construction barrier fencing or other methods approved by DPDS. For trees and clumps of trees to be preserved within the site disturbance limit, tree protection specifications as required in **Chapter 10 Part 1**, "Tree Canopy," shall be followed.

4.7.1 Purpose & Intent

The purpose of this part is to guide development in steeply sloped or unstable hillside areas consistent with Cornerstone 2020 Comprehensive Plan guidelines, to protect natural areas and features and to locate development, where possible, in areas that do not have severe environmental limitations. This section intends to regulate hillside development in order to protect life and property from hazards due to slope, unstable soils, earth movement and other geologic and hydrologic hazards. More specifically, these regulations are intended to:

- A. Maintain property values and avoid property damage due to development of steep slopes and unstable soils;
- B. Incorporate current design, landscape architecture, architecture and civil engineering practices to preserve, enhance, and/or promote the stability and environmental quality of hillside areas;
- C. Preserve or enhance the beauty of the landscape by encouraging the maximum retention of natural topographic features including slopes, ridge lines, vistas, and natural plant communities;
- D. Promote a safe means of ingress and egress for vehicular and pedestrian traffic to and within hillside areas while at the same time minimizing the scarring effects of hillside street construction;
- E. Encourage imaginative and innovative building techniques to create buildings suited to natural hillside surroundings; and
- F. Enhance neighborhood character and community identity associated with the County's hillsides.

From Definitions [Chapter 1 Part2]:

Land Disturbing Activity

– All construction, demolition, reconstruction modification, extension, or expansion of structures or parking areas, placement of fill, dumping, storage of earthen materials, excavation, land clearing, clear-cutting, tree and vegetation removal, grading, grubbing or any similar activity or combination thereof that changes the natural cover or topography creating the potential for erosion and contribution to sediment.

4.7.2 Applicability & Exemptions

A. Applicability

This part shall apply to all land disturbing activity, including new development and subdivision, proposed on:

- 1. Properties that contain slopes of 20% or greater ("steep slopes"), or
- 2. Properties that contain soils rated as "unstable" on Core Graphic 5.

B. Land Disturbing Activity

Land disturbing activity includes the following:

- 1. Clearing of more than 5,000 square feet of forested area for development;

2. Grading, excavation, construction of foundations, footings or retaining walls, or alteration of the ground surface, except for activities defined as agricultural operations in KRS 224.71-100 through 140;
3. The installation of utilities, including but not limited to water, sewer, natural gas, electric, telephone and cable.

C. Exemptions

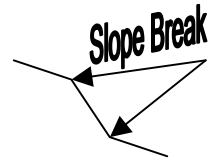
This part shall not apply to the development activities listed in 4.6.1.B.

4.7.3 Development on Steep Slopes

A. Measurement of Steep Slopes

The restrictions on development on sloped areas in this part refer to existing (pre-development) site conditions. Slopes shall be determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the result into a percentage value.

Steepness of slope shall be measured from the points with the highest and lowest elevation between slope breaks. The Planning Director in consultation with NRCS representatives shall make the final determination of what constitutes a slope break.



4.7.4 Land Disturbing Activity on Unstable Soils.

- A. Land disturbing activity on unstable soils (as depicted on Core Graphic 5) is permitted only in accordance with the Comprehensive Plan and in keeping with the following:
1. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain unstable soils; and,
 2. The application for the land disturbing activity includes a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:
 - a. conclude the proposed disturbance and/or construction can be carried out in a manner that will minimize impact on the slope and will not adversely impact foundation stability on the subject property and surrounding properties; and,

- b. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,
 - c. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,
- 3. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
- 4. Prior to requesting a full building permit, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
- 5. Prior to requesting a certificate of occupancy for any structure on the site, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
- 6. Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.

4.7.5 Land Disturbing Activity on Slopes Greater Than 20%.

- A. Land disturbing activity on slopes greater than 20% is permitted on lots existing prior to the effective date of this regulation and on lots created by minor plats submitted for review after the effective date of this regulation only if the activity is in keeping with the Comprehensive Plan and the proposed activity complies with the following standards:
 - 1. The Planning Director finds that the design and configuration of the development results in the minimum disturbance of slopes greater than 20% necessary to accommodate the proposed use of the site; and,
 - 2. Compatible on-site utilities (electric, phone, cable) are placed in a common trench; and,
 - 3. Shared access driveways serving single family residences are used when this technique reduces pavement and grading of steep areas.

- B. Land disturbing activities on slopes greater than 20% is permitted on lots created by major subdivision after the effective date of this regulation only if the activity is in keeping with the Comprehensive Plan and the proposed activity complies with the following standards:
1. The Commission finds that the design and configuration of the development results in the minimum disturbance of slopes greater than 20% necessary to accommodate the proposed use of the site; and,
 2. Compatible on-site utilities (electric, phone, cable) are placed in a common trench; and,
 3. Land disturbing activities on slopes greater than 20% and less than 30% shall be required to prepare a geotechnical survey report if the staff of the USDA Natural Resources Conservation Service determines such a study is warranted, given the site's soil and geologic characteristics. A geotechnical report shall be submitted for land disturbing activities on slopes greater than 30%. The geotechnical survey report shall be submitted with the application for land disturbing activities and shall be prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. The report shall include mitigation measures as needed to ensure stability and minimize environmental impact during site preparation and construction phases of the regulated activity. In addition, the report shall include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance. The Planning Commission may approve the activity if the report opines and demonstrates that:
 - a. The slope's ground surface and subsurface are not unstable;
 - b. Development of the slope and associated mitigation measures will not increase the degree of risk of slope instability both on-site and on adjacent lands; and,
 - c. If a geotechnical report is required, the applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

4.7.6 Independent Review of Geotechnical Survey Report

The Planning Commission may, on recommendation of the Natural Resource Conservation Service or MSD or the Planning Director, require an independent review of the submitted geotechnical survey report. Such review shall be conducted by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. The reasonable cost of such review shall be borne by the applicant.

4.7.7 Development Potential Transfer Allowed

- A. Major subdivision development proposals submitted after the effective date of this regulation and which permanently preserve areas of the site with slopes greater than 20% may transfer the development potential (building sites or floor area) of the permanently preserved area to the remainder of the site subject to the following limitations:
1. The subdivision is not being developed under the Alternative Development Incentives of the Land Development Code; and,
 2. Areas to be permanently preserved are preserved in a manner acceptable to the Commission (e.g., conservation easement, common open space, etc.); and,
 3. The area of the site to which development potential is being transferred is at least as large as the area from which development potential is being transferred (for example; if an applicant wishes to transfer development potential from 3 acres, the portion of the site to which development is shifted must be at least 3 acres); and,
 4. All lots in the proposed development meet the minimum alternative development incentive lot size of the applicable Form District; and,
 5. All lots in the proposed development meet the height, yard and setback requirements of the applicable Form District.
- B. The maximum development potential allowable for transfer shall be determined by one of the following methods:
1. One half of the theoretical development potential based on the number of acres preserved and the existing zoning of the area to be preserved (for example; if 3 acres of an R-4 site is proposed for protection, then 7 building sites could be transferred to other portions of the same property - $3\text{ac} \times 4.84 \text{ units/acre} / 2 = 7.26$ units); or,
 2. The realistic development potential determined by an engineered development plan including a preliminary geotechnical feasibility study and meeting all other requirements of the Land Development Code.

NOTE: Although lot sizes are reduced, setbacks are not reduced for density transfer lots. Consistent appearance throughout the subdivision is intended.

4.8.1 Purpose & Intent

This part is intended: (i) to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions that river and stream corridors, lakes and other critical waterways, wetlands, and their associated riparian areas provide in Jefferson County; (ii) to guide development on sites with environmental constraints consistent with the Cornerstone 2020 Comprehensive Plan; (iii) to locate development, where possible, in areas that do not have severe environmental limitations and to protect natural areas and features as a part of development planning, by designating buffer areas that will guide future development adjacent to protected waterways; (iv) to minimize water pollution, including sediment and other pollutants in surface runoff; to promote bank stabilization; to protect riparian wetlands and their wildlife habitats; (v) generally to promote land use policies which will maintain or improve water quality levels; (vi) to implement goals of the Clean Water Act.

The following terms relating to Waterways & Wetlands Protection are included in the Definitions (Chapter 1 Part 2):

Top of Bank or Stream Bank, Impervious Surface Area, Land Disturbing Activity, Protected Waterway, Riparian Area, Riparian Vegetation, Riprap, Wetlands

4.8.2 Applicability & Exemptions**A. Applicability.**

Unless exempt by subsection B.2 below, this part shall apply to any land disturbing activity and to all new subdivisions, including the expansion or reconstruction of buildings and impervious surface areas existing on March 1, 2003 that occur within a buffer area of a Protected Waterway.

B. Exemptions.

The following developments shall be exempt from this Part's standards:

1. Agricultural Operations as defined in KRS 224.71-100 through 140;
2. The expansion of the building footprint of a residential building existing on March 1, 2003 when the expansion is less than 50% of the building footprint on said date.
3. The expansion of the building footprint of a non-residential building existing on March 1, 2003 when the expansion is less than 10% of the building footprint on that date.

4. A legal lot of record zoned for one and only one single family detached dwelling may be developed (subject to the Development Plan review procedures stated in **Chapter 11 Part 6** of this Land Development Code) for one such dwelling provided that the intrusion into the required buffer is the minimum necessary to accommodate the proposed use.
5. Docks, boat launches, structures which accommodate public water supply intake, water quality treatment plant sewer lines and outfalls, and other uses which, owing to their water dependent nature, cannot be located anywhere but within a designated Buffer Area.

4.8.3 Establishment of Buffer Areas and their Boundaries.

A. Applicability.

Buffer Areas shall be established along Protected Waterways, which shall include the following waterways:

1. Any perennial stream or river (or portion thereof) that is portrayed as solid on the United States Geological Survey 7.5 minute quadrangle maps, of the most recent edition;
2. Wetlands greater than 0.1 acre and subject to federal jurisdiction of the U.S. Environmental Protection Agency and the Army Corps of Engineers; and
3. Lakes with a permanent pool elevation greater than 3 acres in size if they constitute "waters of the Commonwealth" as defined in KRS 224.
4. Other water bodies that have been designated through nomination and legislative approval. A water body may be nominated as a Protected Water Body by resolution of the legislative body(ies) or by resolution of the Planning Commission. The Planning Commission shall conduct a public hearing and recommend candidates for designation to the legislative body(ies) with jurisdictional control which shall have final designation authority.

NOTE: In general, lakes formed by impoundment of streams are subject to this regulation.

Buffer areas are established by this Part along all protected waterways located in Jefferson County, except that more restrictive buffer areas established in Special Districts pursuant to **Chapter 3** of the LDC supersede the requirements of this part.

B. Approval Required.

Specific and final buffer area boundary delineations shall be determined by the Planning Director, or designee.

- C. The minimum Buffer Area requirements established by this Part for water bodies other than wetlands are either:
1. The minimum width as set forth in Table 4.8.1 below. Type A Buffer Areas and the Streamside Zone of Type B Buffer Areas are measured from the top of the bank of the protected stream;
 2. The alternative buffer width and design, approved by the USDA Natural Resources Conservation Service, provided it meets the agency's standards and specifications for riparian buffers. Sites located in form districts otherwise subject to Type B buffer requirement (Table 4.8.1) are eligible for alternative buffer widths, at the applicant's discretion,

Table 4.8.1		
Type of Protected Waterway	Buffer Area Type & Minimum Buffer Area Width (Feet) By Form District	
	Type "A" Buffer Area Applies in the Following Form Districts:	Type "B" Buffer Area Applies in the Following Form Districts:
	<ul style="list-style-type: none"> • Downtown • Traditional Neighborhood • Traditional Marketplace Corridor • Traditional Workplace • Village FD Center 	<ul style="list-style-type: none"> • Regional Marketplace Center • Town Center • Suburban Marketplace Corridor • Neighborhood • Suburban Workplace • Campus • Village FD Area outside of Center
Protected Waterways Other than Wetlands	Total Buffer Area = 25 feet	Total Buffer Area = 100 feet, comprised of the following 3 zones: 1. Streamside zone: 25 feet; 2. Middle zone: 50 feet. 3. Outer zone: 25 feet.

4.8.4 Modifications or Variances of Buffer Area Boundaries

- A. Permitted Minor Modifications from Buffer Area Requirements

A 25% reduction in the buffer width is permitted on a portion of the property if it is offset by an increase of the buffer width on an equal or greater portion of the same property with the result that the average buffer area width for the property is equal to or greater than that specified in Table 1.

- B. Variances – Additional Criteria

1. Buffer Area Requirements are dimensional requirements with respect to which variances may be requested as specified in KRS 100.243. In addition to the applicable criteria for variances provided by statute, the following factors may be considered in such a variance request.
 - a. The variance is necessary because the requirements of this section represent an extreme hardship such that minimal or no reasonable economic use of the land is available without reducing the width of the required Buffer Area.
 - b. The size, shape, or topography of the property, as of March 1, 2003, is such that it is not possible to construct a single family detached dwelling without encroaching into the required Buffer Area.
 - c. Encroachment into the required Buffer Area shall be limited to the minimum necessary to accommodate the proposed use.
 - d. The Applicant shall commit, to the satisfaction of the County, to mitigation measures that substantially offset any potential adverse impacts of the proposed encroachment during site preparation, construction, and post-construction.
 - e. Approval of the variance will not result in a reduction in water quality.

4.8.5 Wetlands Delineation & Protection Standards

- A. Delineation of Wetland Boundaries.
 1. Mapped Wetlands. Boundary delineation of wetlands shall be established using Hydric Soils as a preliminary indicator of wetlands that may meet jurisdictional requirements.
 2. Disputed Wetlands. If a wetlands has not been mapped, or its boundaries not clearly established, or if either the County or Applicant dispute the existing boundaries, the Applicant shall retain a qualified person with demonstrated expertise in the field to delineate the boundaries of the wetland in keeping with the standards specified in *The Corps of Engineers Wetlands Delineation Manual*, Technical Report Y-87-1 (January 1987). Subsequent revisions of the *Delineation Manual* shall not be incorporated into this delineation methodology.
- B. Compliance with Applicable Federal Wetlands Laws or Regulations

1. Prohibited Activities. No person shall engage in any activity that shall disturb, remove, fill, drain, dredge, clear, destroy, or alter any area, including vegetation, within a wetlands that falls in the jurisdiction of the federal government and its agencies, except as may be expressly allowed under applicable federal laws or regulations. Draining any wetland that falls in the jurisdiction of the federal government and its agencies is prohibited except in keeping with the provisions of paragraph 2, below.
2. Federal Approvals Prerequisite to County Approval. The County shall not grant final approval to any land disturbing activity, development, or subdivision in a wetlands that falls within the federal government's jurisdiction until the Applicant demonstrates that all necessary federal approvals and permits have been obtained.

C. Wetland Buffer Width and Use Restrictions

1. Width

Wetland buffer areas shall be at least 25 feet in width. The total width and design shall conform with USDA Natural Resources Conservation Service criteria, but shall not exceed 100 feet.

2. Permitted Uses and Activities

Uses shall be as specified in section 4.8.6.

4.8.6 Standards for Protected Waterways and All Buffer Areas

A. General Rule.

No land-disturbing activity, development, or subdivision of any type shall occur in a protected waterway or Buffer Area, except as expressly allowed in this part and other applicable County, state, or federal laws and regulations. The County shall not approve any land-disturbing activity, development, or subdivision until the Applicant obtains all other necessary county, state, and/or federal permits. All Buffer Areas shall remain in a vegetated, natural state and shall not be modified in any manner except as expressly allowed in this section. Plant material adequate for filtering surface drainage shall be maintained within all Buffer Areas.

B. Permitted Uses and Activities in the 100-Year Floodplain.

Any land disturbing activity, development, or subdivision in the 100-year floodplain shall demonstrate compliance with the Jefferson County Floodplain Ordinance, as amended.

C. Uses Permitted in the Type A Buffer Areas and the Streamside Buffer Zone.

Within a Type "A" Buffer Area and the Streamside Zone of a Type "B" Buffer Area, allowable uses and activities are restricted to:

1. Public flood control structures,
2. Utility rights of way (Type A buffer only),
3. Pedestrian-only trails, and
4. Road crossings, where permitted.

D. Uses Permitted in the Middle Buffer Zone.

Allowable uses and activities within the middle zone of a Type B Buffer Area are restricted to:

1. Utility rights of way
2. Biking or hiking trails,
3. Stormwater management and sediment control facilities approved by the MSD,
4. Recreational uses that entail no impervious surfaces, or are approved by the Planning Commission.

E. Uses Prohibited in the Outer Buffer Zone.

The following uses and activities are not allowed within the outer zone of a Type B Buffer Area:

1. Septic systems, and
2. Permanent structures or impervious surface coverage with a footprint of greater than 100 square feet, with the exception of approved recreational trails.

F. Wetlands and Alternative Type B Buffers

The first 25 feet of wetland and alternative buffers shall meet the use restrictions established for the Streamside Buffer Zone (paragraph C, above). For buffers less than 50 feet in width, the balance of the buffer area shall meet the Middle Buffer Zone restrictions (paragraph D, above). For buffers more than 50 feet in width, one-half the width outside the first 25 feet may be used in accordance with the Middle Buffer Zone restrictions and one-half may be used in accordance with the Outer Buffer Zone restrictions.

G. Location of Platted Lots in Buffers Areas.

1. Any lot contained within a preliminary subdivision plat and intended for development shall be platted outside Type A Buffer Areas, and outside the Streamside and Middle zones of all Type B Buffer Areas.
2. The prohibition on development lots in this subsection shall not preclude the designation of the Buffer Area as a tract of land within the preliminary and final plats related to such real property, provided there is a plat note on such preliminary and final plat that references that the Buffer Area is subject to the terms and conditions of this section and that the Buffer Area tracts are clearly identified as non-buildable tracts.

NOTE: *The application of pesticides and herbicides within Type A and the first 75 feet of Type B Buffer Areas is strongly discouraged.*

H. Prohibited Uses and Activities in Buffer Areas.

The following uses and activities are prohibited in all Buffer Areas because of their proven potential for water pollution:

1. Storage of hazardous substances and fertilizers.
2. Above or below ground petroleum storage facilities.
3. Drain fields from on-site sewage disposal and treatment system (i.e., septic systems).
4. Raised septic systems.
5. Solid waste facilities, such as landfills and including junkyards.
6. Confined animal feedlot operations.
7. Subsurface discharges from a wastewater treatment plant.
8. Land application of biosolids.
9. Filling and/or excavation activities other than those attendant to uses specifically authorized.

I. Recreation, Education, or Scientific Activities Allowed.

Structures and improvements for recreational, educational, or scientific activities, including but not limited to fishing access and wildlife management and viewing, may be permitted in a Buffer Area, provided a management plan that establishes long-term protection of the Buffer Area is submitted with the final plat or plan and is approved by the County.

J. Stream and Buffer Area Crossings: Roads, Bridges, Trails, and Utilities.

Roads, bridges, trails, and utilities are permitted in a Buffer Area and may cross the protected waterway, subject to the Planning Commission's approval based on the recommendations of the Public Works and DPDS and the MSD.

1. The Applicant shall restore any disturbance of the Buffer Area and protected waterway by re-grading and re-vegetation. See paragraph K, "Restoration," below for applicable standards. Provisions for restoration of the disturbed area shall be included in any development or subdivision agreement for the project, with adequate security to guarantee that the restoration will be completed.
2. The right-of-way shall be the minimum width necessary for installation, access, and maintenance.
3. Access for maintenance of utilities in Buffer Areas should be at specific points rather than parallel to the utility corridor.
4. The angle of any crossings shall be perpendicular to the protected waterway or Buffer Area in order to minimize clearing and other land disturbance, unless the Planning Commission finds based on comments from MSD, Public Works or the Planning Director that a perpendicular alignment is not feasible.
5. The number of road crossings shall be the minimum number necessary to provide for adequate transportation connections as required in this Land Development Code.
6. No more than one fairway crossing associated with a permitted golf course use shall be allowed for every 1,000 linear feet of Buffer Area.
7. Trench crossings of rock streambeds visible through the water column or exposed on a seasonal basis shall be restored to a natural appearance using grouting techniques.
8. Plans for the crossing submitted with the application shall identify the alignment of the crossing, the proposed construction techniques, the proposed construction and working easements, and mobilization, staging and temporary disposal areas.

K. Restoration.

At the time of development, the following restoration standards shall be met.

1. Restoration Required to Stabilize Banks. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Where a bank is denuded of its vegetation due to erosion, slope failure or similar occurrence, appropriate vegetation shall be planted to quickly establish a vegetative cover, and then replanted with riparian vegetation to ensure the long-term stabilization of the bank. Restoration plantings shall be selected from the MSD native species restoration specifications.
2. Restoration of Eroded Banks Required. Where stream bank erosion has occurred as a result of on-site development activities, riparian vegetation shall be planted to stabilize the stream bank unless the County determines such vegetation would be inadequate to re-stabilize the bank. In instances where the County determines that planting of riparian vegetation is inadequate to stabilize the stream bank alternate methods of stabilization, approved by the County shall be utilized.
3. Other Restoration Allowed. Stream, stream bank, and vegetation restoration projects are allowed where the goal is to restore the protected waterway, wetlands, or Buffer Area to an ecologically healthy state, as approved by MSD.

L. Water Quality Monitoring Allowed.

Water quality monitoring and stream gauging are allowed within the protected waterway and Buffer Area, as approved by the DPDS or by MSD.

M. Tree and Vegetation Removal.

1. Existing, healthy trees and vegetation within a Buffer Area shall be preserved
2. This provision shall not prohibit any of the following:
 - a. Removal of dead or diseased trees/vegetation (provided a live root system stays intact),
 - b. Removal of noxious weeds;
 - c. Removal of non-native trees/vegetation that threaten native species growth or reintroduction,
 - d. Removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in river/stream beds and that impede river/stream flow, or
 - e. Removal of any other tree/vegetation that is a threat to the public health or safety.

- f. Removal of trees as part of an approved plan for stream side recreation or access (e.g. pedestrian trail) or as part of an approved utility or road construction project.

4.8.7 Credit for Open Space

All protected waterways and their Buffer Areas shall count as open space for the purposes of **Chapter 10 Part 5** "Open Space Standards" of this Land Development Code.

4.9 Karst

NOTE: Section 4.9 is reserved. Standards may be drafted as part of a later phase of the Land Development Code.

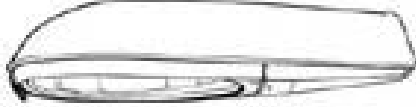

4.10.1 General Standards

The following uses may be allowed in any zoning district after receiving Planning Commission review to ascertain their agreement with the Comprehensive Plan.

- A. Public and Governmental Buildings and Facilities Including Offices, Training Armories, Storage, Maintenance and Repair Facilities
 - 1. Off-street parking and loading for the class of use as required in Chapter 9 shall be provided.
 - 2. All buildings and structures shall maintain setbacks and build-to lines established in the applicable form district. All yards shall be increased one foot for each foot of building height greater than is allowed in the district in which it is located.
 - 3. Drives and parking areas shall be surfaced with a hard and durable material and properly drained.
 - 4. All signs shall conform with the provisions of Chapter 8 (Sign Regulations).
 - 5. Public buildings and facilities shall provide landscaping and buffering in compliance with Chapter 10 Part 2. Facilities shall adhere to the requirements for the Intensity Class that would apply to the use if it were not a public facility.
- B. Public Utility Service Buildings and Facilities and Privately Owned Transmission Lines Above or Below the Ground, Structures, and Appurtenances thereto:
 - 1. All buildings and structures shall observe the front, street side, and rear yard requirements of the form district in which they are located.
 - 2. All buildings and structures shall be at least 10 feet from a side property line. For the purpose of this section an open-mesh, woven-wire fence 8 feet or greater in height may be constructed within the required side or rear yard.
 - 3. If additional building height is needed above the maximum height in the district, one foot shall be added to all yards for each foot of building over the allowed height.
 - 4. Off-street parking and loading areas for the class of use as required in Chapter 9 shall be provided, except at unstaffed or automatic installations.
 - 5. Drives and parking areas shall be surfaced with a hard and durable material and properly drained.
 - 6. All signs shall conform with the provisions of Chapter 8 (Sign Regulations).

7. Public utility buildings and facilities shall provide landscaping and buffering in compliance with Chapter 10 Part 2. Facilities shall adhere to the requirements for the Intensity Class that would apply to the use if it were not a utility facility.
 8. Excepted are service facilities as defined in KRS 100.324.
- C. The standards listed in paragraphs A and B, above, may be waived by the Planning Commission.

APPENDIX 4A EXAMPLES OF ACCEPTABLE LUMINAIRES

Type of Fixture	Watts (Lumens)	Picture/Diagram
Cobra	175 (8,000) 250 (13,000) 400 (25,000) 1,000 (60,000)	
Floodlight	400 (25,000) 1,000 (60,000)	

Source: Louisville Gas & Electric Company

APPENDIX 4B APPROXIMATE LUMENS OUTPUT FOR VARIOUS LAMPS

Wattage	Lamp Type	Initial Lumens
35 W	High Pressure Sodium	2,250
50 W	High Pressure Sodium	4,000
70 W	High Pressure Sodium	6,400
70 W	Metal Halide	5,500
75 W	Incandescent (like in a home)	1,170
100 W	High Pressure Sodium	9,500
100 W	Metal Halide	9,000
100 W	Mercury	3,850
125 W	Mercury (residential security light)	7,000
150 W*	High Pressure Sodium	16,000
175 W	Metal Halide	14,000
175 W	Mercury	7,950
200 W	High Pressure Sodium	22,000
250 W*	High Pressure Sodium	28,000
250 W	Metal Halide	21,000
250 W	Mercury	11,200
310 W	High Pressure Sodium	37,000
320 W	Metal Halide	32,000
350 W	High Pressure Sodium	50,000
350 W	Metal Halide	36,000
400 W*	High Pressure Sodium	61,000
400 W	Metal Halide	36,000
400 W	Mercury	21,000
750 W	High Pressure Sodium	110,000
1000 W	High Pressure Sodium	140,000
1000 W	Metal Halide	110,000
1000 W	Mercury	57,000
1500 W	Metal Halide	155,000

SOURCE: GE Lighting Systems, Inc., January 1998; manufacturer's information, 2001.

* These luminaires are the most commonly used by Louisville Public Works to illuminate local streets. The wattage of the bulb is determined by the road classification and the type of abutting land uses.

APPENDIX 4C SAMPLE LIGHT READINGS

On April 17, 2001 a team of planners conducted a test to evaluate the existing lighting levels of different developments in Louisville/Jefferson County. The results of this field visit are summarized below.

LOCATION	FOOTCANDLE <i>READING</i>
Chapter 2 Typical Living Room	3.0
Chapter 3 Office in Fiscal Court Building (with window)	40 in center of room
Chapter 4 Shelbyville Road Plaza	0.5 under light
Mall St. Matthews	7.5 under light
	2.0 between lights
	0.1 near perimeter road
Oxmoor Mall	11.0 under light
	1.9 between lights
	1.0 near perimeter road
Stonefield Square	5.7 under light
	2.6 between light
Southeast Christian parking lot	1.0 under light
Winn-Dixie on Blankenbaker	0.4 vertical at back wall (property line)
	6.2 under light in front
	2.0 between lights
Kroger's on LaGrange	1.4 vertical at back wall (property line)
	14 under light
	3.2 between lights
McDonald's on LaGrange	40 under light
	2.5 between lights
Thornton's on LaGrange	68 under canopy
	2.1 at parking space
Kroger's in Fern Creek	5.4 under light
	3.4 between lights
	1.0 vertical behind near property line
BP at Hurstbourne/Bardstown Intersection	23 under canopy
	0.2 at property line
Meijer's Gas Canopy on Hurstbourne	40 under gas canopy
	1.9 vertical at ROW
	5.5 under light
	1.0 between lights
Chevron on Hurstbourne	64 under canopy
	2.6 vertical at ROW
Speedway on Hurstbourne	45 under canopy
	2.3 at residential property line
Marshall's on Hurstbourne	13 under light
	2.0 between lights

APPENDIX 4D ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (IESNA) MAINTAINED HORIZONTAL ILLUMINANCE RECOMMENDATIONS

Level of Activity	General Parking and Pedestrian Use			Vehicle Use Only		
	Average	Minimum	Uniformity Ratio	Average	Minimum	Uniformity Ratio
HIGH Major League Athletic Events Major Cultural or Civic Centers Regional Shopping Centers Fast Food Facilities	3.6	0.9	4:1	2.0	0.67	3:1
MEDIUM Community Shopping Centers Cultural, Civic, or Recreational Events Office Parks Hospital Parking Transportation Parking (airports, etc.) Residential Complex Parking	2.4	0.6	4:1	1.0	0.33	3:1
LOW Neighborhood Shopping Industrial Employee Parking Education Facility Parking Church Parking	0.8	0.2	4:1	0.5	0.13	4:1

APPENDIX 4E RECREATIONAL FACILITIES STANDARDS

Recreational and Sports Facility	Maximum Footcandles*	
Archery		
Tournament	10	
Recreational	5	
Badminton		
Tournament	30	
Club	20	
Recreational	10	
Baseball	Infield	Outfield
Jr. League	30	20
Regulation		
Major League	150	100
AAA or AA	70	50
A	50	30
Semi-pro and municipal	20	15
Recreational	15	10
Combination – baseball and football	20	15
Basketball		
Regulation	20	
Recreation	10	
Casting Pool and Area, Bait or Fly	Pier – 10, Target – 5	
Croquet		
Tournament	10	
Recreation	5	
Football (index distance from nearest sideline to farthest row of spectators)		
Over 100 ft.	100	
50 ft. to 100 ft.	50	
30 ft. to 50 ft.	30	
Under 30 ft.	20	
No fixed seating	10	
Golf	Green or Tee	Fairways
Courses	5	3 (vertical)
Driving range	10	5 (vertical)
Miniature	10	
Putting green	10	
Playgrounds	5	
Racing		
Auto, Horse, Motorcycle	20	

Recreational and Sports Facility	Maximum Footcandles*	
Bicycle	20	
Rifle & Pistol range	10, 5, 50 (vertical)	
Firing point, range, target		
Rodeos	50, 30, 10	
Professional, amateur, recreational		
Soccer	SEE FOOTBALL	
Softball	Infield	Outfield
Professional or Championship	50	30
Semi-pro	30	20
Industrial league	20	15
Recreational	10	7
Swimming Pools	10	
Tennis Courts	30 20 10	
Tournament		
Club		
Recreational		
Volleyball	20 10	
Tournament		
Recreational		

SOURCE: Illuminating Engineering Society of North America

*All footcandle requirements are in terms of the horizontal plane unless noted.

Appendix 4F Conditional Use Table

How to use this table

The following table is a summary of the conditional use lists for each of the zoning districts. It is included with the Land Development Code to facilitate use of the detailed information found in Chapter 4 of the Code. This table is intended to help you determine the appropriate zoning district for a given conditional use. It summarizes and simplifies the information found in Chapter 4; it does not replace Chapter 4. Once you have determined the zones which allow a conditional use, it is necessary to consult Chapter 4 for a complete description of the use and possible restrictions on the use.

In using the table, please keep in mind the following points:

- The table is a guide to users, it is not an officially adopted part of the Land Development Code
- The conditional use lists of Chapter 4 always take precedence over this table.
- In some instances, certain jurisdictions within the County have modified the conditional use lists; refer to Chapter 4 to ensure that a use is conditional at a particular location.
- This table will be updated periodically; refer to the web site for the most recent version including recent staff interpretations (<http://www.loukymetro.org>; choose “County” then “Departments”, then “Planning and Design Services” then “New Land Development Code.”)

Key: C = Conditional use, may be granted in the district after a public hearing

Appendix 4F – Conditional Uses

Please refer to Chapter 4 of the Land Development Code for more information regarding these conditional uses.

Conditional Use	Residential															Commercial						Industrial										
	Single Family								Multi-family					Apt./Office																		
	R-R	R-E	R-1	R-2	R-3	R-4	R-5	U-N	R-5A	R-5B	R-6	R-7	R-8A	OR	OR-1	OR-2	OR-3	OTF	C-N	C-R	C-1	C-2	C-3	CM	EZ-1	M-1	M-2	M-3	PRO	PEC	W-1	W-2
Accessory Apartments	C	C	C	C	C	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Airports, heliports, and other aviation uses	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
All Terrain Vehicle (ATV) Courses	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	-	-	-	-	-	-	-	-
Aluminum powder	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-
Amusement parks, circuses, and carnival grounds	-	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	C	C	C	-	-	-	-	-
Animal race tracks	-	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	-	-	-	-	-	-	-	-
Athletic Facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-
Bed and breakfasts	C		C	C	C	C	C	C	C	C	C			-		-			-	-	-				-	C	C	C	-	-	-	-
Boarding homes	C	C	C	C	C	C	C	-	-	-	C			-		-		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Brick, fireback, tile, clay products, including refractories: manufacturing, processing or treatment but not including storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-
Camping areas and recreational vehicle parks, public and private	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Cement, gypsum, lime, and plaster of paris (but not storage)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-

Conditional Use	Residential															Commercial						Industrial											
	Single Family								Multi-family					Apt./Office																			
	R-R	R-E	R-1	R-2	R-3	R-4	R-5	U-N	R-5A	R-5B	R-6	R-7	R-8A	OR	OR-1	OR-2	OR-3	OTF	C-N	C-R	C-1	C-2	C-3	CM	EZ-1	M-1	M-2	M-3	PRO	PEC	W-1	W-2	W-3
Cemeteries, mausoleums, and crematories	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Charcoal, lampblack, carbon black, bone black, and fuel briquettes, including pulverizing	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-
Chemicals, including acetylene, acids and derivatives, alcohol (industrial), ammonia, aniline dyes, carbide, caustic soda, cellulose and cellulose storage, chlorine, cleaning and polishing preparation (non-soap), dressings and blackings, creosote, dyestuffs, exterminating agents and poisons, hydrogen and oxygen, plastic materials, and synthetic resins, potash, pyroxylin, tar products, turpentine and resin, and solvent-extracting	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-	
Coal, coke, or tar products including fuel gas, and coke-oven products	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-	
Commercial animal feeding yards (including hogs, chickens, and other animals as determined by the appropriate Board of Zoning Adjustment)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	-	-	-	-	-	

Conditional Use	Residential															Commercial						Industrial											
	Single Family								Multi-family					Apt./Office																			
	R-R	R-E	R-1	R-2	R-3	R-4	R-5	U-N	R-5A	R-5B	R-6	R-7	R-8A	OR	OR-1	OR-2	OR-3	OTF	C-N	C-R	C-1	C-2	C-3	CM	EZ-1	M-1	M-2	M-3	PRO	PEC	W-1	W-2	W-3
Commercial communication towers (including radio and television towers)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Commercial greenhouses	C	-	C	C	C	C	C	-	C	C	C	C	C	-	C	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Commercial kennels	C	C	C	C	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	-	C	-	C	C	C	-	-	-	-	-
Commercial lakes	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Composting facilities	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	-	-	-	-	-
Construction/demolition debris facilities	-	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	C	-	-	-	-	-	-
Day care facilities	C	C	C	C	C	C	C	C	C	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Distillation, manufacture, or refinement of coal, tar, asphalt, or asphalt products	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-	-
Distillation of wood and bones	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-
Doctor, dentist, or chiroprator office	-	-	-	-	-	C	C	-	C	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Drive-in theaters	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	-	-	-	-	-	-	-	-	-	-
Earth excavation, filling, and refuse disposal operations, major	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	-	-	-	-	-
Earth excavations/fill, minor	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Electric power or steam generating plants	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-	-

Conditional Use	Residential															Commercial						Industrial											
	Single Family								Multi-family					Apt./Office																			
	R-R	R-E	R-1	R-2	R-3	R-4	R-5	U-N	R-5A	R-5B	R-6	R-7	R-8A	OR	OR-1	OR-2	OR-3	OTF	C-N	C-R	C-1	C-2	C-3	CM	EZ-1	M-1	M-2	M-3	PRO	PEC	W-1	W-2	W-3
Explosives (when not prohibited by other ordinances) including ammunition, fireworks, nitrating of cotton or other materials, nitrates (manufactured and natural) of an explosive nature, and storage of latter	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Exterminating operations where exterminating chemicals or agents are stored	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Extraction and development of oil, gas, and other hydrocarbon substances	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Fertilizer (organic and non-organic), including fish, oils, manure, or peat	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Funeral homes	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	C	C	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-
Glue and size (vegetable), gelatin (animal), and starch manufacture	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Golf driving ranges, miniature golf courses, and privately owned golf courses operated for a commercial purpose	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	-	-	-	-	-	-	-	-	-
Grain storage or grain elevators	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-

Conditional Use	Residential															Commercial						Industrial											
	Single Family								Multi-family					Apt./Office																			
	R-R	R-E	R-1	R-2	R-3	R-4	R-5	U-N	R-5A	R-5B	R-6	R-7	R-8A	OR	OR-1	OR-2	OR-3	OTF	C-N	C-R	C-1	C-2	C-3	CM	EZ-1	M-1	M-2	M-3	PRO	PEC	W-1	W-2	W-3
Hair, hides, raw fur, leather, curing, dressing, dyeing, finishing, tanning, and storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Home occupations	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Hospitals, clinics and other medical facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Indoor recycling	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	C	-	-	-	-	-	
Institutions	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Marinas and boat rental facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Marinas and boat rental facilities, commercial	Depends on the nature of the commercial uses available at the marina and boat rental facility																																
Match manufacture, processing, or treatment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	
Meat and fish products, including slaughtering of meat or curing of fish, packing, and storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	
Metal and metal ores, reduction, refining, smelting, alloying, including blast furnaces, cupolas, and blooming mills (but not storage of metal products)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-	
Minerals and earths (including sand-lime products), grinding, crushing, processing or storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-	
Mini-warehouses	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	

Conditional Use	Residential															Commercial						Industrial											
	Single Family								Multi-family					Apt./Office																			
	R-R	R-E	R-1	R-2	R-3	R-4	R-5	U-N	R-5A	R-5B	R-6	R-7	R-8A	OR	OR-1	OR-2	OR-3	OTF	C-N	C-R	C-1	C-2	C-3	CM	EZ-1	M-1	M-2	M-3	PRO	PEC	W-1	W-2	W-3
Mobile homes and manufactured housing sales, display or storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	C	C	-	-	-	-	-	-	-	-
Mobile home parks	-	-	-	-	-	-	-	-	-	-	-	C	C	C	-	-	C	C	-	-	C	C	-	C	-	-	-	-	-	-	-	-	
Multi-family residences	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Nursing homes and homes for the infirm or aged	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Off-street parking areas	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Ore dumps, slag piles	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	
Outdoor paintball ranges	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Outdoor recycling facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	
Paint manufacture, processing, or treatment (but not storage)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-
Petroleum or petroleum products, refining, bulk storage, including gasoline or other petroleum products	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-
Plastic, manufacture, processing, treatment, or bulk storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-
Private non-profit clubs	C	C	C	C	C	C	C	C	C	C	C	C	C	-	C	C	-	-	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-
Private proprietary clubs	C	C	C	C	C	C	C	C	C	C	C	C	-	-	C	C	C	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-
Radioactive materials	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-	-
Ranges for shotgun, rifle, pistol, air rifle, or other firearms	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	-

Conditional Use	Residential															Commercial						Industrial										
	Single Family								Multi-family					Apt./Office																		
	R-R	R-E	R-1	R-2	R-3	R-4	R-5	U-N	R-5A	R-5B	R-6	R-7	R-8A	OR	OR-1	OR-2	OR-3	OTF	C-N	C-R	C-1	C-2	C-3	CM	EZ-1	M-1	M-2	M-3	PRO	PEC	W-1	W-2
Rendering, incineration or reduction, and storage of dead animals, garbage, offal, or waste products (the entire operation to be performed within a building)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Riding academies and stables	-	-	C	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	-	-	-	-	-	-	-	-
Scrap metal processing facilities and junkyards	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Sewage disposal plants	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Slaughtering of animals or poultry	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-
Solid Waste Managemnt Facilities	Depends on the nature of the facility, please refer to the following items in this table: Composting Facilities, Construction/Deomlition Debris Facilities, Indoor Recycling Facilities, Outdoor Recycling Facilities, and Solid Waste Transfer Stations																															
Solid Waste Transfer Station	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	-	-	-	-
Sports arenas	C	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	C	-	-	-	-	-	-	-
Stock yards and feed lots	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Steel works and rolling mills (ferrous) for steel, structural iron and steel fabrication, and structural products, including bars, cables, girders, rails, wire rope, or similar products	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-	-
Storage Yard and Contractor’s Yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	-	C	-	-	-	-	-	-

Conditional Use	Residential															Commercial						Industrial										
	Single Family								Multi-family					Apt./Office																		
	R-R	R-E	R-1	R-2	R-3	R-4	R-5	U-N	R-5A	R-5B	R-6	R-7	R-8A	OR	OR-1	OR-2	OR-3	OTF	C-N	C-R	C-1	C-2	C-3	CM	EZ-1	M-1	M-2	M-3	PRO	PEC	W-1	W-2
Underground Space	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Waste paper and rag operations	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	C	C	C	C	C	C	-	-	
Wood pulp or fiber, reduction or processing (including paper mill operations)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	
Zoos	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C

Note: This document was prepared by The Louisville/Jefferson County Metropolitan Sewer District. If you have any questions about this document please contact that agency at (502) 587-0603.

FLOODPLAIN MANAGEMENT ORDINANCE

A. PURPOSE

The purpose of this Ordinance is to maximize the wise and safe use of the flood prone areas of the County and to ensure that flood levels are not increased and to minimize public and private losses from flooding by

1. restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
2. requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. controlling the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
4. controlling filling, grading, dredging and other development which may increase flood damage or erosion; and
5. preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

B. DEFINITIONS

1. **"Administering Agency"** means the Louisville and Jefferson County Metropolitan Sewer District.
2. **"Basement"** means that portion of a building having its floor subgrade (below ground level) on all sides.
3. **"Breakaway wall"** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

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4. **"Critical facility"** means any facility which if unusable or unreachable because of flooding would seriously and adversely affect the health and safety of the public, to include (but without limiting effect) hospitals, nursing homes, and housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; police stations, fire stations, emergency vehicle and emergency equipment storage facilities, and emergency operations centers likely to be called upon before, during and after a flood; public and private utility facilities important to maintaining or restoring normal services before, during and after a flood; and those structures or facilities which produce, use, or store highly volatile, flammable, explosive, toxic, and/or water reactive materials.
5. **"Development"** means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other **structures**, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.
6. **"Elevated building"** means a non-basement building built to have the lowest **floor** elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.
7. **"Existing development"** means any **development** or **structure** for which permitted construction commenced before the effective date of this ordinance.
8. **"FEMA"** means the U. S. Federal Emergency Management Agency or any successor agency.
9. **"Flood"** or **"flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland waters or the unusual and rapid accumulation or runoff of surface waters from any source.
10. **"Flood Plain Board"** means the Board of the Louisville and Jefferson County Metropolitan Sewer District.
11. **"Floodplain permit"** means the approval required by Part C of this Article of the Louisville and Jefferson County Metropolitan Sewer District for **development**.
12. **"Floodplain storage compensation"** means an artificially excavated, hydraulically equivalent volume of floodplain storage sufficient to offset a reduction in floodplain storage resulting from filling or construction within the **local regulatory floodplain**. Such **floodplain storage compensation** shall be within the same **watershed** and shall be provided on the same property or at an alternate site if the **administering agency** so approves.

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13. **"Floodproof" or "floodproofing"** means any combination of structural and non-structural additions, changes or adjustments to **structures** which reduce or eliminate **flood** damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
14. **"Floor"** means the top surface of an enclosed area in a building (including **basement**), such as the top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.
15. **"Fully developed watershed"** means a condition of a **watershed** which most accurately reflects the ultimate land use of the **watershed** and its potential to cause runoff.
16. **"Functionally dependent facility"** means a facility which in the judgment of the **administering agency** cannot perform its essential project purpose unless it is located or carried out in close proximity to water. The term does not include long-term storage, manufacture, sales, service or residential facilities.
17. **"Historic structure"** means any **structure** which is
 - (a) listed individually in the National Register of Historic Places by the U. S. Department of Interior or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (b) certified or preliminarily determined by the U. S. Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (c) listed individually by the Commonwealth of Kentucky on its state inventory of historic structures or listed individually by the City of Louisville or Jefferson County in its inventory of historic structures.
18. **"Local regulatory conveyance zone"** means the channel of a river or **solid blue line stream** and the land adjacent to that river or stream which if unobstructed will discharge a **local regulatory flood** without cumulatively increasing the water surface elevation more than one tenth of one foot. The conveyance zone is determined by an equal loss of conveyance (at higher elevation) occurring on each side of the channel.

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19. **"Local regulatory flood"** means the **flood** having a one-percent (1%) likelihood of being equaled or exceeded in any given year based on a **fully developed watershed**.
20. **"Local regulatory base flood elevation"** means height of the **local regulatory flood** expressed as feet above mean sea level (National Geodetic Vertical Datum 1929). This is determined by hydraulic calculations using the runoff from a **fully developed watershed** using as the basis for calculation a methodology approved by the **administering agency** which includes storm duration estimates and using zoning maps current as of the time of the calculation, provided that in calculating runoff potential for publicly owned property dedicated to public open space, for existing cemeteries, for existing 18 hole or larger regulation golf courses and for land prohibited from **development** by ordinance of Jefferson County or one of the municipalities within its boundaries, the actual use rather than the designated zoning category on the zoning maps shall be used.
21. **"Local regulatory floodplain"** means any stream course or normally dry land area susceptible to being partially or completely inundated by the overflow of water from sources of **public water** or by the unusual and rapid accumulation or runoff of public surface waters and subject to a **local regulatory flood**.
22. **"Lowest adjacent grade"** means the lowest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.
23. **"Manufactured home"** means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property but does not include road ready vehicles not permanently attached to utilities.
24. **"Manufactured home park"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
25. **"National Flood Insurance Program" or "NFIP"** means the Federal program authorized by 42 United States Code 4001 et seq. making available flood insurance protection to property owners in **flood** prone areas, which availability is conditioned on the community's adoption and enforcement of flood plain management regulations meeting the minimum criteria set forth in the statute and the regulations.

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26. **"New construction"** means any **development** which had not begun construction on the effective date of this ordinance. The first placement of permanent features of the **development** such as pouring of slabs or footings and installation of piles constitute beginning of construction but land preparation, grading and filling or construction of accessory **structures** do not.
27. **"Public water"** means water that flows from more than one property or from public lands or rights-of-way.
28. **"Structure"** means a walled and roofed building built for occupancy, storage, support, shelter, or enclosure that is principally above ground, including but not limited to a manufactured home, a gas or liquid storage tank, or other man-made facility or infrastructure.
29. **"Solid blue line stream"** means a stream defined and designated as such on 7 minute quadrangle topographic maps published by the U.S. Geologic Survey.
30. **"Substantial improvement"** means any combination of repairs, reconstruction, alteration, additions to or improvements to **existing development**, taking place during the life of the **structure** and begun after the effective date of this ordinance in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the **structure**. The market value of the **structure** for purposes of this ordinance is (a) the appraised value of the **structure** determined by a certified general real property appraiser licensed and certified by the Kentucky Real Estate Appraisers Board or lacking that, the current assessment of the **structure** shown by the Property Valuation Administrator of Jefferson County, prior to the start of the initial addition, repair or improvement, or (b) in the case of damage, prior to the damage's occurrence. The term includes repairs made to **structures** which have incurred damage equal to or in excess of fifty percent (50%) of the pre-damage value of the **structure**, regardless of the cumulative cost of the actual repair work performed. The cost of alteration, additions, or improvements shall reflect the value in the marketplace of the labor and materials to be used in the improvements. The first alteration of any wall, ceiling, floor or other structural part of the **structure** whether or not that alteration affects the external dimensions of the **structure** constitutes beginning of construction of the **substantial improvement**. The term does not include the cost of **floodproofing** or elevating a **structure** or any portion thereof above the **local regulatory base flood elevation** plus one foot.
31. **"Watershed"** means all the area within a geographic boundary from which water, sediments and other transportable materials, and dissolved materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.

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32. **"Watershed master plan"** means the plan adopted by the Board of the **administering agency** which depicts the critical hydrologic and flood management elements of a **watershed** such as **local regulatory floodplain and local regulatory conveyance zones** and is supported by maps, graphics, text, models, and capital improvements planned by the **administering agency**.

C FLOOD HAZARD REDUCTION PROVISIONS

1. Local Regulatory Conveyance Zone

- (a) No **development**, shall occur in the **local regulatory conveyance zone** except as approved in a permit issued by the **administering agency** and are
- (i) Detention, retention, or other stormwater, flood control, or water quality facilities which are beneficial to the stream corridor and riparian environment or
 - (ii) Uses consisting of open space which are in conformance with the Zoning Regulations of Louisville and Jefferson County and are associated with bona fide agriculture, silviculture, recreation, parking, and storage that whether in place or dislodged would not contribute to an increase in the **local regulatory base flood elevation** or
 - (iii) Necessary for navigation and waterborne freight handling or
 - (iv) Necessary for transportation or utility crossings or
 - (v) Structures related to those in (ii) or (iii) above so long as the structures are designed, constructed and sited so as to offer the minimum obstruction to flows during a **local regulatory flood** or
 - (vi) **Functionally dependent facilities** which considered alone or with **development** up and down stream and across the stream are not likely to contribute to an increase in the **local regulatory base flood elevation**.
- (b) No permit shall be required for

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- (i) Customary and incidental routine grounds maintenance, landscaping, and home gardening which does not require zoning approval, a zoning variance or a building permit and which does not affect stormwater drainage entering or leaving any public right-of-way or
 - (ii) Emergency repairs of a temporary nature made on public or private property which are necessary for the preservation of life, health or property, and which are made under such circumstances where it would be impossible or impracticable to obtain a **floodplain permit** or
 - (iii) Temporary excavation for the purpose of repairing or maintaining any public street, public utility facility or any service lines related thereto.
- (c) No person shall store materials, which are flammable, explosive, reactive, toxic, corrosive or because of their buoyancy or other properties may be injurious to human, animal or plant life in the **local regulatory conveyance zone**.

2. Streams

For "**solid blue line streams**"

- (a) Notwithstanding anything in this Part C to the contrary, no relocation, channelization, or stripping of the stream, stream banks, or channel shall occur except for public projects such as road crossings, installation of utilities, flood control measures, drainage and outfall pipes, detention basins, retention basins or water impoundments and for projects with benefit to the public in preventing flooding provided such projects are essential to protect the health, safety, and welfare of local residents, such projects are the only alternative which is viable, and all exceptions are approved by the **administering agency**, the Louisville and Jefferson County Planning Commission, the Kentucky Division of Water, and if applicable, the U. S. Army Corps of Engineers.
- (b) A natural vegetation buffer strip shall be preserved at least twenty-five feet on each side of the stream bank as defined by the hydraulic model of the channel. In areas not already disturbed by urban, suburban, or agricultural land uses prior to the effective date of this ordinance, existing over story and under story trees shall be preserved and shrubs and ground covers shall be maintained along the stream bank sufficient to naturally maintain the integrity of the channel.

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- (c) When removal of vegetation within the buffer strip specified in (ii) above is necessary for the location and construction of a public project or project with benefit to the public in preventing flooding described in 2 (a) above, native vegetation which thrives in riparian environments shall be replanted prior to completion of construction sufficient to naturally maintain the integrity of the channel.

3. Local Regulatory Floodplain

- (a) **Floodplain Permit.**

No person shall begin **development** in the **local regulatory floodplain** unless and until a **floodplain permit** has been issued by the **administering agency**.

- (b) Required Issuance.

The **administering agency** shall issue a **floodplain permit** for

- (i) **Development**, not including **critical facilities**, for use as a residence
 - (A) consisting of **new construction** or **substantial improvement** where the lowest **floor** including the **basement** if any is elevated at least one foot above the **local regulatory base flood elevation** or
 - (B) consisting of **existing development** other than **substantial improvement** which
 - (I) replaces or repairs the pre-existing condition of **development** or constructs additions or remodeling which do not constitute **substantial improvement** without diminishing the storage capacity or the amount and velocity of the transmission of flood waters through the **local regulatory floodplain** from what was present prior to the replacement or repair or

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- (II) **floodproofs** the existing **development** below the **local regulatory base flood elevation** plus one foot so that those areas including all mechanical and utility equipment below the required elevation are watertight with walls substantially impermeable to the passage of water and structural components are used which have the capability to resist hydrostatic and hydrodynamic loads and the effects of buoyancy which capabilities shall be certified by a registered professional engineer or architect and provided to the **administering agency and**
 - (III) **floodproofs** any addition or elevates it no less than one foot above the **local regulatory base flood elevation**
- (C) consisting of emplacing a **manufactured home**
- (I) in an existing **manufactured home park** which
 - a) elevates the lowest **floor** of the **manufactured home** at least one foot above the **local regulatory base flood elevation or**
 - b) supports the **manufactured home** chassis by reinforced piers or other foundation elements of at least an equivalent strength of no less than 36 inches in height above grade,
 - c) and in either (a) or (b) above, firmly anchors the **manufactured home** to the securely anchored foundation so as to resist flotation, collapse and lateral movement.
 - (II) in a **newly constructed or substantially improved** or expanded **manufactured home park** or the **new construction or substantial improvement** or expansion of such a **manufactured home park** which

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- a) emplaces the **manufactured home** on a building pad which is raised no less than one foot above the **local regulatory base flood elevation** and
 - b) firmly anchors the **manufactured home** to the securely anchored foundation so as to resist flotation, collapse and lateral movement.
- (III) In an existing new or expanded **manufactured home park** where the owner notifies all owners or lessees of **manufactured homes** to be located in the **manufactured home park** of the requirements of this section C3(b)(I)(C) and insures their compliance with those requirements.
- (D) On any lot created after the effective date of this ordinance, no **new construction** shall occur unless access to the lot is available from a road which is at or above the **local regulatory base flood elevation**.
- (ii) **Development**, other than a **critical facility**, for all other uses
 - (A) where the lowest **floor** including **basement** if any and all mechanical and utility equipment are elevated at least one foot above the **local regulatory base flood elevation** or
 - (B) where **development** consists of **new construction** or **substantial improvement** where the portion of the **new construction or substantial improvement** below the **local regulatory base flood elevation** plus one foot is **floodproofed** so that those areas including all mechanical and utility equipment below the required elevation are watertight with walls substantially impermeable to the passage of water and structural components are used which have the capability to resist hydrostatic and hydrodynamic loads and the effects of buoyancy which capabilities shall be certified by a registered professional engineer or architect and provided to the **administering agency**.

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- (C) **existing development** not consisting of **substantial improvement** which
 - (I) replaces or repairs the pre-existing condition of **development** without diminishing the storage capacity or the amount and velocity of the transmission of flood waters through the **local regulatory floodplain** from what was present prior to the replacement or repair or
 - (II) **floodproofs** the existing **development** as repaired or replaced in accordance with the standard provided in section (ii)(B) above, and
 - (III) **floodproofs** any addition or elevates it no less than one foot above the **local regulatory base flood elevation**
- (iii) **Development for Critical Facilities.**
 - (A) **a critical facility** consisting of **substantial improvement** so long as it meets the other requirements of this section (ii)(A) and (B) provided that the lowest **floor** including the **basement** if any is elevated at least one foot above the **local regulatory base flood elevation** and it has at least one access road capable of supporting a vehicle weighing 12,500 pounds which road is connected to land outside the **local regulatory floodplain** and the top of which road is no lower than one foot above the **local regulatory base flood elevation**.
 - (B) **a critical facility** not consisting of **new construction** or **substantial improvement** which
 - (I) replaces or repairs the pre-existing condition of **development** without diminishing the storage capacity or the amount and velocity of the transmission of flood waters through the **local regulatory floodplain** from what was present prior to the replacement or repair or
 - (II) **floodproofs** the existing **development** as repaired or replaced in accordance with the standard provided in section (ii)(B) above, and

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- (III) **floodproofs** any addition or elevates it no less than one foot above the **local regulatory base flood elevation**.

- (c) Permissive Issuance.

The **administering agency** may issue a **floodplain permit** if the proposed **development** is consistent with the purposes of this ordinance and the factors listed below have been considered and either avoided or mitigated:

- (i) the danger to life and property presented by a **local regulatory flood**;
- (ii) the susceptibility of the proposed facility and its contents to damage from a **local regulatory flood** and the effect of such damage on the individual owner;
- (iii) the danger that in a **local regulatory flood** materials may be swept onto other lands to the injury of others;
- (iv) the safety of access to the property in times of a **local regulatory flood** for ordinary and emergency vehicles;
- (v) the costs and feasibility of providing governmental services during and after a **local regulatory flood**, including fire protection, emergency medical services, police protection, maintenance and repair of streets and bridges and of providing safely operating public utilities and facilities such as sewer, gas, electrical and water systems;
- (vi) the expected heights, velocity, duration, rate of rise and sediment transport of the waters from a **local regulatory flood** expected at the site.

- (d) General Provisions.

- (i) **For a floodplain permit** issued under either (b) or (c) above, any part of the **development** which is elevated above the adjacent grade

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- (A) If solid foundation perimeter walls are to be used to elevate the structure above the **local regulatory base flood elevation**,
 - (I) There shall be provided openings sufficient to facilitate the unimpeded movement of flood waters and equalize hydrostatic flood forces on exterior walls which capabilities shall be certified to the **administering agency** by a professional engineer or architect or which designs shall provide openings in each wall having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, and the bottom of all openings shall be no higher than one foot above grade; and openings equipped with screens, louvers, valves or other coverings or devices shall permit the automatic flow of flood waters in both directions, and
 - (II) All space within the area created by the solid perimeter walls shall be designated undevelopable space with a restriction recorded with the deed of such designation evidence of which recorded restriction shall be provided to the **administering agency** before approval of the **floodplain permit**, and
 - (III) The interior portion of the area shall not be partitioned or finished into separate rooms.
- (B) If piers, posts or columns are to be used to achieve the elevation, the area encompassed by the piers, posts or columns shall not be designated living space, but shall be designated undevelopable space and shall be so restricted on the deed to the property filed in the Office of the Clerk of Jefferson County, the pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse and lateral movement due to effects of water load which values shall be those associated with a **local regulatory base flood**, and the design shall be certified by a registered engineer as meeting accepted standards of practice for such structures. **Breakaway walls** shall be non-supporting and designed to collapse without causing collapse or displacement or other structural damage of the **elevated building**.

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- (ii) For a **floodplain permit** issued under Section C3(b) or (c) above, any **development** which displaces any storage capacity for floodwaters in the **local regulatory floodplain** shall provide **floodplain storage compensation**.
 - (iii) **No floodplain permit** shall be issued under Section C3(b) or (c) above for **development** constituting **substantial improvement** or repairs or replacement on **existing development** to be used for storage of materials which are flammable, explosive, reactive, toxic, corrosive or because of their buoyancy or other properties may be injurious to human, animal or plant life unless plans have been presented by the permit applicant acceptable to the **administering agency** to keep the materials secure, to anchor the containers so they do not float away and to prevent spillage or leakage in the event of flooding and such plans have been attached to the **floodplain permit** as conditions, provided that occupants of properties zoned for residential use may store de minimis quantities of these materials sufficient for the occupants' personal use on the property.
 - (iv) Except for police stations and fire stations, no **new construction** of critical **facilities** shall occur in the **local regulatory floodplain** and no **elevation** shall be permitted for **new construction of critical facilities** (except for police stations and fire stations) to raise them above the **local regulatory base flood elevation**.
- (e) Certificate of Elevation.
- (i) No person shall allow or permit construction to proceed beyond the lowest **floor** until a registered land surveyor or registered engineer has submitted to the **administering agency** a certificate of elevation on a form approved by **FEMA** stating the elevation of the lowest **floor** and that it conforms to the requirements of the **floodplain permit** regarding the elevation of the lowest **floor**.
 - (ii) No person shall use or occupy a **structure** which by terms of the **floodplain permit** is to be **floodproofed** until a registered engineer or architect licensed in the Commonwealth has completed and filed with the **administering agency** a certificate of floodproofing on a form approved by **FEMA**.

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(f) Expiration of **Floodplain Permit**.

If the holder of a **floodplain permit** has not commenced construction within one (1) year from the date of its issuance by the **administering agency**, **the floodplain permit** shall expire and no **development** shall be permitted on the subject property unless and until a new **floodplain permit** is issued, provided that the term of an approved **floodplain permit** may be extended if the assumptions under which the permit was issued remain valid and the extension is approved in writing by the **administering agency** before the **floodplain permit** expires with no more than two one-year extensions to be approved. Demolition, site clearing, and site preparation do not constitute commencing construction for the purpose of this section.

(g) Conformance with **Floodplain Permit**.

No person who has obtained a **floodplain permit** shall construct **development** except in accordance with its terms.

(h) Nonconforming Use.

An **existing development** which was lawful on the effective date of this ordinance but which is not in conformity with the provisions of this ordinance may be continued so long as

- (i) the **existing development** is not expanded or enlarged except in conformity with the provisions of this ordinance and
- (ii) any alteration, addition or repair of the **existing development**, either which was the consequence of damage from any source equal to fifty (50%) percent or more of the value of the **existing development** immediately before the damage occurred or which involves a cost in excess of fifty (50%) percent of the market value of such **existing development** and in either case is made only in conformity with the provisions of this ordinance.

4. Consent to Public Construction

Notwithstanding any provision in this ordinance to the contrary, no structure or improvement shall be constructed nor change in topography imposed nor shall any other **development** be carried out by any public entity without specific consent's having been granted by the property owner or its designee or agent or by a Court in a legal proceeding separate and apart from this ordinance nor shall any use be made of the property by any public entity without

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specific consent for such use having been granted by the property owner or its designee or agent or by a Court in a separate legal proceeding. This section applies only to this ordinance and the activities and facilities provided for by the terms of this ordinance.

D. ADMINISTRATION

1. Administering Agency.

The Louisville and Jefferson County Metropolitan Sewer District shall be the **administering agency** for this ordinance. As **administering agency** it shall

- (a) Keep on file and make available to the public for its inspection up to date copies of the Flood Insurance Rate Maps published by the Flood Insurance Administration or **FEMA** for Jefferson County and any cities within its geographic boundaries as they may be amended by that Agency from time to time.
- (b) Accept data from third parties or use data of which it may become aware such as construction of any flood control protective works, evaluate it and, when the **administering agency** deems it accurate and otherwise acceptable, submit it to the Administrator of the Flood Insurance Administration or **FEMA** as the basis for amending the Flood Insurance Rate Maps for Jefferson County, and work with **FEMA** to amend the Flood Insurance Rate Maps for the County.
- (c) Engage in a program of education to promote public awareness of the location of flood prone areas, the risks of undertaking development in those areas without appropriate **floodproofing** and **floodplain storage compensation** measures, the availability and advantages of flood insurance, and protections which may be provided by **floodproofing** and **floodplain storage compensation**.
- (d) On a time schedule as staffing and budget permit in the discretion of the **administering agency** prepare or cause to be prepared **watershed master plans** for all watersheds in the County identifying thereon the **local regulatory base flood elevation**, the **local regulatory floodplain**, the **local regulatory conveyance zone**, and other relevant hydraulic and geologic information.
- (e) Develop an application for the **floodplain permit** listing items and information to be submitted for review and the form of those submittals and establish fees to be paid to the **administering agency** to cover the cost

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of its review. Information to be submitted shall include but not be limited to the following: site plan, lower floor construction drawings, grading and drainage plans, base flood elevation, conveyance zone limits, elevation of lowest floor, floodproofing elevation if applicable, floodproofing certification if applicable, description of the extent to which a watercourse will be altered, description of access, State permit, deed of restriction if applicable, certificate by a registered professional engineer in the State of Kentucky as to floodproofing adequacies and base flood elevation data for proposed new **development**.

- (f) Review all **floodplain permit** applications for **development** or construction of structures in the **local regulatory floodplain** and so long as the application as it may be revised and any conditions attached to it are consistent with the requirements of this ordinance issue **floodplain permits** therefore and assure that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required.
- (g) Inspect as necessary **development** permitted by the **floodplain permit** or local regulatory conveyance zone permit to assure its conformance with the **permit** issued and obtain from the permit holder certificates of elevation in accordance with the provisions of this ordinance.
- (h) When the **development** is not in conformance with this ordinance or with the **floodplain permit** or the **local regulatory conveyance zone** permit issued by the **administering agency**, either take appropriate enforcement action or recommend enforcement action to the **Flood Plain Board**.
- (i) Notify adjacent communities and the State prior to any alteration or relocation of a watercourse and submit evidence of such notification to **FEMA**.
- (j) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (k) Develop regulations as necessary implementing the provisions of this ordinance including application forms and required submittals of technical information and maps and drawings to provide the **administering agency** adequate information for its review.
- (l) Provide to the **Flood Plain Board** the information and assistance required and necessary for its proceedings and actions.

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- (m) At its sole discretion, in an emergency, if other appropriate information designating **local regulatory base flood elevation, local regulatory conveyance zone and local regulatory floodplain** is not available, use maps issued by **FEMA** designating the **FEMA** base flood elevation, floodway and floodplain instead.

2. Variances.

The **Flood Plain Board**, upon application, after public hearing, and subject to the procedural and substantive standards hereinafter set forth, may grant such specific variance from the individual provisions of Part C above as will not cause detriment to the public good, safety or welfare nor be contrary to the spirit, purposes or intent of this ordinance where by reason of unique and exceptional physical circumstances or condition of the particular property owned by the applicant (including all adjacent or contiguous or nearby property under the same ownership) the literal enforcement of the requirements of this ordinance will result in an unreasonable hardship on the owner of the property adversely affected by the provisions of Part C.

- (a) The following additional prerequisites are required for the granting of a variance from Part C:
 - (i) the property is a **historic structure**, the **development** proposed will not preclude the structure's continued designation as a **historic structure** and the variance requested from the provisions of Part C is the minimum required to preserve the historic character of the structure; or
 - (ii) the variance is the minimum necessary to afford relief, considering the **flood hazard**; and
 - (iii) a showing has been made of good and sufficient cause, a finding has been made that failure to grant the variance would result in exceptional hardship to the applicant, and a finding has been made that the granting of a variance would not result in an increase in the **local regulatory base flood elevation**, additional threats to public safety, or public expense, nor create nuisances, cause fraud on or victimization of the public, nor conflict with existing local laws or ordinances; and
 - (iv) a variance shall not be granted within the **local regulatory conveyance zone** if any increase in the **local regulatory base flood elevation** during a **local regulatory flood** would result.

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(b) Conditions.

- (i) Upon consideration of the factors noted above and the intent and policies of this ordinance, the **Flood Plain Board** may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives herein.
- (ii) If an applicant is granted a variance which allows the permitted structure to be built with a lowest **floor** elevation no more than a specified number of feet below the **local regulatory base flood elevation** then the applicant shall be notified that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest **floor** elevation.

(c) Additional information.

The **Flood Plain Board** may require the applicant to submit such additional information as it may deem necessary in order for it to evaluate the variance request.

(d) Process

Upon receipt of the written request of an applicant for a variance stating the reason therefore, the written decision of the **administering agency** disapproving the requested **development** and receipt of any additional information requested by the **Flood Plain Board**, the **Flood Plain Board** shall schedule a public hearing date, notify adjacent property owners and hear all interested parties at the hearing before rendering its decision to grant or deny the variance or to grant it with conditions.

3. Appeals.

- (a) Any person aggrieved by a final written decision of the **administering agency** under this ordinance may appeal that decision to the Jefferson Circuit Court.
- (b) All appeals shall be taken in the appropriate Circuit Court within thirty (30) days after the final action or decision of the **administering agency** and all decisions which have not been appealed within thirty (30) days shall become final.

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- (c) When an appeal has been filed, the clerk of the Circuit Court shall issue a summons to all parties, including the **administering agency** in all cases, and shall cause to be delivered for service as in any other law action.

E. ENFORCEMENT

1. Civil Offense.

If, at any time **development** occurs which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms of a **floodplain permit or a local regulatory conveyance zone permit** and conditions and any approved modifications thereof, such violation of this ordinance is a civil offense.

2. Notice of Violation.

If, at any time, a duly authorized employee or agent of the **administering agency** has reasonable cause to believe that a person has caused **development** to occur which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms of a **floodplain permit** and the conditions and any approved modifications thereof, a duly authorized employee or agent of the **administering agency** shall issue a notice to the person responsible for the violation and/or the owner of the property, stating the facts of the offense or violation, the section of this ordinance and/or the permit violated, when it occurred, how the violation is to be remedied to bring the **development** into conformity with this ordinance or with the approved permit, and within what period of time the remedy is to occur which period of time shall be reasonable and shall be determined by the nature of the violation and whether or not it creates a nuisance or hazard. The remedy may include an order to stop work on the **development**. The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken which citation will request a civil monetary fine and shall state the maximum fine which could be imposed.

3. Notice of Citation.

If, at any time, a duly authorized employee or agent of the **administering agency** has reasonable cause to believe that a person has caused **development** to occur which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms of a **floodplain permit or a local regulatory conveyance zone permit** and the conditions and any approved modifications thereof, a duly authorized employee or agent of the **administering agency** may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the **development** into conformity with this ordinance or with the approved

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penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation or requesting a hearing before the **Flood Plain Board**. If the person to whom the citation is issued does not respond to the citation within seven (7) days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final. In that event, the citation shall be presented to the **Flood Plain Board** and it shall enter its decision without a hearing.

4. **Flood Plain Board Proceedings.**

- (a) If the person to whom the citation is issued requests a hearing before the **Flood Plain Board**, the **Flood Plain Board** shall schedule the hearing within fourteen (14) days unless all parties mutually agree to a continuance.
- (b) Evidence against the person charged with the violation shall be presented by an attorney at law and the proceedings shall be recorded; the person cited may be represented by counsel. The **Flood Plain Board** shall take all testimony under oath and may subpoena alleged violators, witnesses and evidence to its hearing.
- (c) Any person not appearing at a duly scheduled hearing shall be deemed to have waived the right to a hearing and the **Flood Plain Board** may enter its final decision.
- (d) The **Flood Plain Board** shall hear the evidence presented and based thereon shall render its decision and final order, which may uphold the citation, dismiss it, order remedies and corrective action or a penalty or some combination thereof. Its final order shall be rendered in writing.
- (e) The final order of the **Flood Plain Board** may be appealed to the Circuit Court of Jefferson County within thirty (30) days of the date that it is issued. It shall be initiated by the filing of a complaint by the aggrieved party and the action shall be tried de novo. If the final order is not appealed within thirty (30) days of its issuance, it shall be deemed final and unappealable.

5. Remedies.

At the conclusion of the hearing and after due deliberation of the evidence presented, the **Flood Plain Board** may

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- (a) revoke or suspend a **floodplain permit** or a permit issued to perform work in a **local regulatory conveyance zone** if
 - (i) a violation of any condition of the permit occurs; or
 - (ii) a violation of any provision of this ordinance or any other applicable law, ordinance, rule or regulation pertaining to the permit occurs; or
 - (iii) any condition exists or any act is done constituting fraud or creating a nuisance or hazard or endangering human life or the property of others.
- (b) issue a stop work order on all construction activity on the subject property which may be directly or indirectly related to site drainage and which is being performed pursuant to any permits, licenses, franchises or contracts issued or approved by the **administering agency**, the County or other municipality.
- (c) order the owner of the property and/or the holder of the permit issued under this ordinance to take such steps as are necessary to protect the public health and safety through an order to stop work or to take corrective or remedial action on the property where work constituting a violation of this ordinance has occurred or is in progress. If the action ordered by the **Flood Plain Board** is not taken within the period of time set by the **Flood Plain Board**, the **Flood Plain Board** may authorize the **administering agency** or its designee to cause the action to be taken, charging the violator all costs of such remedial mitigating or corrective action plus legal costs which costs shall become a lien against the property of the person cited, shall be recorded in the office of the county clerk, and shall bear interest until paid in full and may be enforced by legal action.
- (d) assess a civil monetary penalty in accordance with Section E 6 below.

6. Penalties.

- (a) Any person who violates this ordinance or fails to comply with any of its requirements shall be guilty of a civil offense and upon a finding of the **Flood Plain Board** that such violation has occurred may be fined by the **Flood Plain Board** a civil monetary penalty of not more than \$500 for each day the violation has occurred with a maximum not to exceed \$50,000 for each violation if the person who committed the offense contests the citation or a civil monetary fine of not more than \$300 for each day the violation has occurred with a maximum not to exceed of \$30,000 for each violation if the person who committed the violation does not contest the citation.

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- (b) No penalty authorized in this ordinance may be imposed after the expiration of five years beginning on the date of the issuance of the citation by the **administering agency**.

7. Notice to Parties of Record and Insurers.

When a violation of any provision of this ordinance has occurred and a nonappealable order of the **Flood Plain Board** or a court of law has been entered, the **administering agency** shall notify any party having a legal interest in the property which is filed of record in the Office of the Clerk of Jefferson County or any party which has insured or could insure against **flood** damage to the property of the existence of the violation.

8. Public Nuisance

Every **development** placed or maintained in the **local regulatory conveyance zone** or in the **local regulatory floodplain** in violation of this ordinance is a public nuisance and the creation thereof may be enjoined and maintenance thereof may be abated by legal or equitable action of the **administering agency** or the County or the municipality in which it is located. Nothing contained herein shall prevent the **administering agency**, any municipality or Jefferson County from taking such other immediate lawful actions as are necessary to prevent, correct, or remedy any such violation when there is reason to believe that the existence of the violation presents a serious threat to the public health, safety, welfare, or in the absence of immediate action, the effects of the violation may be irreparable or irreversible. Any such matters assessed or actions taken shall be in addition to and not instead of the remedies and penalties provided herein.

F. CONCURRENT ACTION BY PLANNING COMMISSION

This ordinance does not preclude the Louisville and Jefferson County Planning Commission from including land proposed for **development** as well as land designated as being within the **local regulatory floodplain** in its calculation of gross density. Wherever feasible, practicable and appropriate, the Louisville and Jefferson County Planning Commission may allow the same gross density on the land to be developed as would have been allowed on the total parcel were the **local regulatory floodplain** not present.

G. DISCLAIMER OF LIABILITY

The County recognizes that although the degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations, on rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. These provisions do not imply that land outside the flood plain areas or that uses permitted within such areas will be free from flooding or flood damages. These provisions shall not create liability on the part of the County or the **administering agency** or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

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ORDINANCE NO. 26
Series 2001

ORDINANCE

Jefferson Fiscal Court

An Ordinance Relating To:

AN ORDINANCE REPEALING CHAPTER 159 OF THE JEFFERSON COUNTY/ KENTUCKY CODE OF ORDINANCES AND ADOPTING A NEW CHAPTER **159** RELATING TO EROSION PREVENTION AND SEDIMENT CONTROL.

INTRODUCED	9-11-01	BY COMMISSIONER MAPLE
FIRST READING	9-11-01	
SECOND READING	9-25-01	
ADOPTED	9-25-01	BY UNANIMOUS VOTE

ORDINANCE NO. 26, SERIES 2001

AN ORDINANCE REPEALING CHAPTER 159 OF THE JEFFERSON COUNTY, KENTUCKY CODE OF ORDINANCES AND ADOPTING A NEW CHAPTER 159 RELATING TO EROSION PREVENTION AND SEDIMENT CONTROL.

WHEREAS, in 2000, Fiscal Court enacted an Erosion Prevention and Sediment Control Ordinance as Ordinance 28, Series 2000, codified in Chapter 159 of the Jefferson County, Kentucky Code of Ordinances, in order to control soil erosion and sedimentation arising from development and other land disturbing activities, to conserve, preserve, and enhance the natural resources of Jefferson County, to comply with all applicable federal and state requirements for clean water, as well as to achieve other public purposes; and

WHEREAS, it is the desire of Fiscal Court to repeal the existing Chapter 159 of the Jefferson County, Kentucky Code of Ordinances and adopt a new Chapter 159 to replace it;

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF JEFFERSON COUNTY, KENTUCKY:

Section 1. The Fiscal Court of Jefferson County does hereby repeal Chapter 159 of the Jefferson County, Kentucky Code of Ordinances.

Section 2. A new Chapter 159 of the Jefferson County, Kentucky Code of Ordinances is hereby adopted to read as follows:

SECTION 159.01 GENERAL PROVISIONS

A. TITLE

This ordinance shall be known and may be officially cited as the "Louisville and Jefferson County Erosion Prevention and Sediment Control Ordinance." It is referred to in this Chapter as "this Ordinance."

B. AUTHORITY

This Ordinance is adopted pursuant to the powers granted and limitations imposed by Kentucky laws, including the statutory authority granted to Kentucky counties in Kentucky Revised Statutes (K.R.S.), Chapter 67.

This Ordinance is also adopted pursuant to the powers granted and limitations by the Federal Clean Water Act, 33 U.S.C. §1323, Part A., *et seq.*, and in particular those parts that authorize local governments to require any federal department or agency to comply with all local water pollution control requirements.

C. PURPOSE

The regulations set forth in this Ordinance are intended to protect the general health, safety, and welfare of the citizens of Louisville and Jefferson County, and more specifically are intended to:

1. Conserve, preserve, and enhance the natural resources of Jefferson County, including its soils, waters, vegetation, fish and wildlife;
2. Control soil erosion and sedimentation arising from development and other land disturbing activities (e.g., clearing and grading), to prevent adverse impacts and offsite degradation, including short-term and long-term damage to public and private property;
3. Comply with all applicable state and federal requirements for clean water, including limitations on the discharge of pollutants as set forth in the Kentucky Pollutant Discharge Elimination System (KPDES); and all applicable provisions of the Federal National Pollution Discharge Elimination System general permit for municipalities (Phase I and Phase II); and

Provide definitive procedures in the area of erosion prevention and sediment control (hereinafter "EPSC") regulations and review, as applied in Jefferson County.

D. DEFINITIONS

1. General Provisions.

For purposes of this Ordinance, the terms and words set forth below shall be defined as set forth below. Any terms or words not defined here shall be defined as set forth in the Development Code for all of Jefferson County, KY, including the Zoning District Regulations and the Metropolitan Subdivision Regulations (hereinafter "the Development Code") dated November 1997, as it may be amended from time to time.

2. Specific Definitions.

- (a) "Adverse impact" shall mean a material negative impact on land, water, and associated resources resulting from a land disturbing activity, the negative impact includes increased risk of flooding, degradation of water quality, increased sedimentation, reduced groundwater recharge, adverse effects on aquatic organisms, wildlife, and other resources, and threats to public health.
- (b) "Ceased" shall mean one or more deliberate actions taken by the Permittee that, taken together, reasonably indicate a site is no longer active, including but not limited to removal of equipment and machinery or failure to maintain EPSC best management practices.
- (c) "Certified Construction Reviewer (hereinafter 'CCR') shall mean those individuals, having passed a training course sponsored or approved by the Louisville and Jefferson County Metropolitan Sewer District (hereinafter "MSD"), who provide on-site EPSC inspection for the permittee in accordance with this Ordinance.
- (d) "Concept EPSC plan" shall mean a preliminary presentation of techniques, measures, and controls intended to prevent erosion and control sedimentation arising from land disturbing activities on a specific development site or parcel of land.
- (e) "Construction Dewatering" shall mean the removal of water for construction activities by pumping, drainage or evaporation.
- (f) "Contractor" shall mean a person who contracts with the permittee, landowner, developer, or another contractor (i.e., subcontractor) to undertake any or all the land disturbing activities covered by this Ordinance.
- (g) "Co-Permittee" shall mean any person, other than the permittee, including but not limited to a developer or contractor who has or represents having financial or operational control over the land disturbing activity.
- (h) "Detailed EPSC plan" shall mean an accurately-scaled plan and attendant documentation depicting and describing techniques, measures, and controls intended to prevent erosion and control sedimentation arising from land disturbing activities on a specific development site or parcel of land. The detailed EPSC plan includes full engineering and construction details for all proposed controls and shall be incorporated into the full construction plans.
- (i) "Developer" shall mean a person undertaking, or for whose benefit, any or all the activities covered by this Ordinance are commenced or carried out.
- (j) "Development Code" shall mean the Development Code for all of Jefferson County, Kentucky, including the Zoning District Regulations and the Metropolitan Subdivision Regulations, as amended from time-to-time.
- (k) "EPSC" shall mean the prevention of soil erosion and control of solid material during land disturbing activity to prevent its transport out of the disturbed area by means of air, water, gravity, or ice.
- (l) "EPSC Board" shall mean the Louisville and Jefferson County Planning Commission.
- (m) "Erosion" shall mean the wearing away of land surface by the action of wind, water, gravity, ice, or any combination of those forces.
- (n) "Final Stabilization" shall mean that 1) all land disturbing activities at the site have been completed, 2) there are no areas of active erosion evident, and 3) and that a uniform perennial vegetative cover with a density of 70% of the cover for the area has been established or equivalent stabilization measures (i.e., mulches or geotextiles) have been employed.
- (o) "General Permit" shall mean an agreement between the regulating authority and the Permittee which specifies conservation measures which must be implemented in the construction of activities specified in the terms and conditions of the general permit.

- (p) "Grading" shall mean any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.
- (q) "Land Disturbing Activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into waters or onto lands, including but not limited to, clearing, grading, excavating, transporting and filling of land, except the term shall not include:
 - (i) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
 - (ii) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard surfaced provided appropriate sediment control practices are implemented for any long-term stockpiling of excavated or fill materials;
 - (iii) Septic tank lines or lateral fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
 - (iv) Tilling, planting or harvesting of agricultural, horticultural, or forest crops or livestock feedlot operations; including soil conservation operations related to agriculture as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, and land drainage and land irrigation which does not cause an increase in storm water runoff and does not exacerbate erosion and sedimentation;
 - (v) Clearing and grading activities that disturb less than 2000 square feet AND are situated no closer than 50-feet to a solid or intermittent blue line stream, and which are not governed under a General Permit or Site Disturbance Permit;
 - (vi) Emergency work to ensure health, safety and property and emergency repairs. However, if the land-disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of this ordinance.
- (r) "Landowner" shall mean a person, firm, or governmental agency holding legal title, or in possession or control of the land who indirectly or directly allows the land disturbing activity or benefits from it.
- (s) "Permittee" shall mean the "Person Responsible for the Land Disturbing Activity".
- (t) "Person" shall mean any individual, firm, partnership, joint venture, association, club, fraternal organization, corporation, estate, trust, receiver, organization, syndicate, city, county, municipality, district, or other political subdivision, or any other group or combination acting as a unit, and any agency or instrumentality thereof.
- (u) "Person Responsible for the Land Disturbing Activity" shall mean the person holding legal title to the land upon which the land disturbing activity will take place or the person in possession or control of the land or who directly allows the land disturbing activity or benefits from it.
- (v) "Qualified Plan Preparer" shall mean, at a minimum, a professional engineer or landscape architect licensed in the Commonwealth of Kentucky. MSD may, at a later date, develop a program to identify other qualified professionals.
- (w) "Responsible Personnel" shall mean any foreman, superintendent or project engineer who is in charge of on-site clearing and grading operations or sediment control associated with land disturbance.
- (x) "Sediment" shall mean solid particulate matter, both mineral and organic, that has been or is being transported by water, air, ice, or gravity from its site of origin.
- (y) "Stop work order" shall mean an order directing a Permittee to cease and desist all or any portion of the work which violates the provisions of this ordinance.

E. APPLICABILITY

Subject to the exemptions set forth in subsection F. below, the EPSC provisions of this Ordinance shall apply to all land disturbing activities undertaken in Jefferson County.

F. EXEMPTIONS

The following land disturbing activities shall be exempt from compliance with the provisions of this Ordinance, provided all such exempt activities are undertaken in a manner that presents no significant erosion or sedimentation potential:

1. Agricultural operations required to adopt and implement an individual agriculture water quality plan pursuant to the requirements set forth in the Kentucky Agriculture Water Quality Act (K.R.S. 224.71-100 et seq.), as it may be amended from time to time;
2. Usual and customary site investigation and surveying activities, such as soil testing, rock coring, test pits, boundary and topographic surveying, monitoring wells, and archaeological

excavations, undertaken prior to submittal of an application for preliminary subdivision or development approval; provided any land disturbance is incidental to necessary equipment access and performance of investigation and surveying activities.

3. Following preliminary subdivision or development approval but prior to site disturbance permit approval and issuance, clearing necessary to provide access for survey work, rock soundings, or other usual and customary site investigations, provided the following conditions are met:
 - (a) Preliminary site investigations that have been planned to minimize the amount of clearing required;
 - (b) Clearing shall follow proposed roadway centerlines and shall not result in a clear access way of more than 20 feet in width;
 - (c) Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width and No trees 8 inches or greater in diameter measured at breast height (dbh) shall be removed without prior approval by the Jefferson County Division of Planning and Design Services (hereinafter "DPDS").
4. Minor land disturbing activities that disturb 2000 square feet or less of land area and not within 50 feet of a drainageway. This exemption shall not apply to land disturbance activities subject to the general permit provisions set forth in Section 159.02.1. below (e.g., land disturbance activities by utilities or in connection with single-family home construction).

G. RELATIONSHIP TO OTHER ORDINANCES AND CODES

1. Conflicts with Other Regulations. When the provisions of this Ordinance are inconsistent with one another or when the provisions of this Ordinance conflict with the provisions found in other adopted ordinances or regulations, the more restrictive provision that provides maximum EPSC shall govern.
2. Relationship with Other County Ordinances/Codes Regulating Land Development.
 - (a) Wherever practicable, the provisions of this Ordinance, which require review and approval of EPSC measures prior to the commencement of land disturbing activity, shall be applied concurrently with the administering agencies' obligations to review and/or approve subdivision plans, general or detailed development plans, construction plans, building plans and floodplain permits.
 - (b) It shall be the Permittee's responsibility to determine and comply with all other applicable city, county, state, or federal ordinances or regulations governing land development and land disturbing activities, some of which may be conditions of approval under this ordinance (i.e., KPDES general permit).

H. TRANSITIONAL PROVISIONS

This subsection addresses the applicability of new procedural and substantive standards enacted by this Ordinance to activities, actions, and other matters that are pending or occurring as of the effective date of this Ordinance.

1. Completion of Land Disturbing Activity or Development Commenced or Approved Prior to the Effective Date of this Ordinance.
 - (a) Buildings or Developments with Previously Issued Building Permits or Approved Construction Plans. Any building, structure, development, or land disturbing activity for which a valid building permit was granted or for which construction plans were approved prior to the effective date of this Ordinance shall be permitted to proceed to construction even if such activity or construction does not conform to the technical provisions of this Ordinance. If construction is not completed within the time allowed under the original building permit, construction plan approval or any extension granted, then the building or development shall be constructed or completed only in compliance with all requirements of this Ordinance.
 - (b) Buildings or Developments with Complete Applications for Construction Plan Approval. Any building, structure, development, or land disturbing activity for which a complete application for construction plan approval has been submitted to MSD prior to the effective date of this Ordinance shall be permitted to finish the approval process, and if approved, proceed according to the approved plans even if such construction or activity does not conform to the technical provisions of this Ordinance. If construction is not completed within the time allowed under the original construction plan approval or any extension granted, then the building or development shall be constructed or completed only in compliance with all requirements of this Ordinance.
 - (c) Developments or Other Activities with Applications for Approval Pending. Any development or land disturbing activity that has submitted an application for preliminary subdivision, development plan, conditional use, or any other type of land use or grading/clearing approval other than for construction plan approval, but for which no final action has been taken by the appropriate reviewing body on such application prior to the effective date of this Ordinance, shall be approved only if the development or land disturbing activity complies with all

provisions of this Ordinance.

2. Grandfathered Development/Activities Still Subject to Enforcement & Penalties Provisions. Developments or land disturbing activities for which complete applications for construction plan approval have been submitted or approvals/permits have been granted prior to the effective date of this Ordinance may proceed as provided in Section 159.01.H.I.(b) above, provided that all such development and land disturbing activities undertaken after the effective date of this Ordinance, and not otherwise exempt from this Ordinance, shall be in accordance with the previously approved plans. Failure to develop in accordance with such previously approved plans or failure of the previously approved plans to prevent offsite sedimentation shall subject the development to all provisions of this Ordinance, including those provisions dealing with inspection, enforcement and penalties.

I. RULES OF CONSTRUCTION & INTERPRETATION

1. Meaning & Intent. All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to this Ordinance's stated purpose and intent.
2. Text Controls. In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, or figure, the text shall control.
3. Delegation of Authority. Whenever a provision of this Ordinance requires the head of a department to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the authority to subordinates, unless the terms of the provision specify otherwise.

J. SEVERABILITY

If a court of competent jurisdiction declares that any section, subsection, or provision of this Ordinance is invalid, that ruling shall not affect the validity of any other part of this Ordinance or the Ordinance as a whole, which shall remain in full force and effect.

K. LIABILITY DISCLAIMER

Nothing contained in this Ordinance, and no action or failure to act under this Ordinance shall be construed to:

1. Impose any liability on the County, MSD, or other administrating or enforcement agency or entity for the recovery of damages caused by such action or failure to act; or
2. Relieve the Permittee of the duties, obligations, responsibilities, or liabilities arising from or incident to the operations associated with the land disturbing activity.

SECTION 159.02 ADMINISTRATION & REVIEW PROCEDURES

A. ADMINISTERING AUTHORITIES/ POWERS

This subsection sets forth the roles and powers that MSD and various county agencies and bodies have in administering this EPSC Ordinance.

1. MSD. The powers and functions of MSD with respect to administering this Ordinance are as follows:
 - (a) Review and approve all EPSC plans and issue all requisite site disturbance permits authorized by this Ordinance.
 - (b) Negotiate the terms and conditions of all general permits authorized by this Ordinance in consultation with the DPDS and the City of Louisville.
 - (c) Perform pre-construction site meetings, construction inspections and negotiated compliance efforts in the enforcement of this Ordinance; issue notices of violation and stop work orders.
 - (d) Develop an education and training program for contractors, inspection agency personnel, plan reviewers and plan preparers and individuals seeking certification as CCR's.
 - (e) Prepare, implement and revise methods, EPSC standards and specifications for inclusion in the MSD Design Manual, Standard Specifications and Standard Drawings.
 - (f) Adopt, collect and distribute permit fees for EPSC plan review and construction inspection activities.
2. DPDS. The powers and functions of DPDS with respect to administering this Ordinance are as follows:
 - (a) Upon referral from MSD, review and comment upon detailed EPSC plans submitted concurrently with construction plans required under the Development Code.
 - (b) Participate with MSD, as appropriate, in pre-construction site meetings required pursuant to this Ordinance, in order to coordinate compliance with other applicable Development Code standards and provisions.
 - (c) Through zoning enforcement, landscape, binding element and/or environmental health and protection officers, perform inspections and negotiated compliance efforts in the enforcement of this Ordinance, including the necessary issuance of notices of violation and stop work orders, against MSD.
 - (d) Negotiate the terms and conditions of MSD's general permit and assist MSD with negotiation of all other general permits authorized by this Ordinance.
3. Jefferson County Division of Public Works & Transportation. The powers and function of the Jefferson County Division of Public Works & Transportation with respect to administering this Ordinance are as follows:
 - (a) Upon referral from MSD, review and comment upon detailed EPSC plans submitted concurrently with construction plans required under the Development Code.
 - (b) Participate with MSD, as appropriate, in pre-construction site meetings required pursuant to this Ordinance, in order to coordinate compliance with other applicable Development Code standards and provisions.
4. City of Louisville Department of Public Works. The powers and functions of the City of Louisville Department of Public Works with respect to administering this Ordinance are as follows:
 - (a) Upon referral from MSD, review and comment upon detailed EPSC plans submitted concurrently with construction plans required under the Development Code.
 - (b) Participate with MSD, as appropriate, in pre-construction site meetings required pursuant to this Ordinance, in order to coordinate compliance with other applicable Development Code standards and provisions.
 - (c) Assist MSD with negotiation of general permits authorized by this Ordinance.
5. Jefferson County Building Code Enforcement Officers. The function of the Jefferson County Building Code Officers with respect to this Ordinance consists of and is limited to, in the course of their normal inspection and enforcement duties, cursory observations of individual building sites related to the standards of this Ordinance and refer any observed violations to MSD. This is not to be interpreted as an inspection with authority to act on any violations pertaining to this Ordinance.
6. City of Louisville Department of Inspection, Permits & Licenses. The function of the City of Louisville Department of Inspection, Permits & Licenses with respect to this Ordinance consists of and is limited to, in the course of their normal inspection and enforcement duties, cursory observations of individual building sites related to the standards of this Ordinance and refer any

observed violations to MSD. This is not to be interpreted as an inspection with authority to act on any violations pertaining to this Ordinance.

7. Other Municipal Code Enforcement Agencies Located in Jefferson County. The function of other Jefferson County code enforcement agencies or municipalities located in Jefferson County with respect to this Ordinance consists of and is limited to, in the course of their normal inspection and enforcement duties, cursory observations of individual building sites related to the standards of this Ordinance and refer any observed violations; to MSD. This is not to be interpreted as an inspection with authority to act on any violations pertaining to this Ordinance.
8. EPSC Board. The powers and functions of the EPSC Board with respect to administering this Ordinance are to issue remedial orders and impose specified civil fines to enforce violations of this Ordinance.

B. PERMITTEES

1. Permittee Verification Identified. The Permittee for site disturbance permits authorized by this Ordinance shall sign the application form acknowledging his/her status as the Person Responsible for the Land Disturbing Activity.
2. Co-Permittee Verification Required. All contractors and subcontractors whose construction activities may impact the quality of discharge from the site shall complete a written form acknowledging their status as Co-Permittees under the provisions of this Ordinance. Such form(s) shall be kept on-site at all times during site development and during the land disturbing activity. This provision does not apply to single family general permittees.

C., REVIEW & APPROVAL OF LAND DISTURBING ACTIVITIES—GENERAL PROVISIONS

1. Applicability. No land disturbing activity subject to the provisions of this Ordinance shall take place except in accordance with either:
 - (a) An approved EPSC plan and a duly-issued site disturbance permit; or
 - (b) An authorized general permit.
2. Types of EPSC Plan Approval Procedures. For purposes of this Ordinance, there are three types of plan approval procedures keyed to the proposed land disturbing activity at issue: Type I Review, Type II Review, and Review Pursuant to a General Permit. These review procedures are described in Section 159.02.F. through H., and summarized in Table 159-1 found in Appendix A to this Ordinance.
3. Types of Permits. There are two types of permits granted by MSD to allow land disturbing activities subject to the provisions of this Ordinance: Site Disturbance Permits (Type I and Type II approvals) and General Permits. These permit requirements are keyed to the proposed land disturbing activity at issue and are described in Section 159.02. F. - H., and summarized in Table 159-1 found in Appendix A to this Ordinance.
4. Types of EPSC Plans Required. There are two types of EPSC plans that may be required as part of an application for approval of land disturbing activities subject to this Ordinance: Concept EPSC plans and Detailed EPSC plans. Plan preparation requirements are described in Section 159.02.E. below.
 - (a) Concept EPSC plans are required only for those land disturbing activities subject to a Type I review and not otherwise exempt or subject to a general permit under the terms of this ordinance. When no concept EPSC plan is required, documentation will be so noted on the land-use plan receiving preliminary plan approval from MSD.
 - (b) Detailed EPSC plans are required for all land disturbing activities subject to this Ordinance, except those authorized by a general permit.
5. Applications. Applications for review and approval of EPSC plans shall be submitted by the Permittee on forms provided by MSD in such numbers as required by MSD. Applications shall be accompanied by a non-refundable fee established by MSD to defray the costs of program administration and operation.
6. Permitted Scope of Action.
 - (a) All EPSC plans shall be approved according to the procedures set forth in Section 159.02.F. through H. below. In addition, all plans shall evidence compliance with the standards set forth in Section 159.03 below and all applicable standards and specifications set forth in MSD's Design Manual, Standard Specifications and Standard Drawings.
 - (b) MSD may impose conditions on the application or allow amendments to the application if the effect of the conditions or amendments is to ensure compliance with this Ordinance and/or reduce the erosion or sedimentation adverse impacts or offsite degradation of the development or land disturbing activity.
7. Submittal Requirements. A schedule of submittal requirements for each type of application and plan required under this Ordinance is set forth in the MSD Design Manual. The schedule of

submittal requirements shall be reviewed periodically and may be adjusted, if necessary, by MSD.

8. Revocation Authority. MSD shall have the authority to revoke any final approval or permit granted pursuant to this Ordinance, after notice to the Permittee, upon a finding of any of the following:
 - (a) The land disturbing activity is being undertaken in violation of this Ordinance;
 - (b) The land disturbing activity is being undertaken in violation of any approved plans, specifications, or conditions of approval;
 - (c) The land disturbing activity is being undertaken in such a way as to constitute a public nuisance; or
 - (d) The approval or permit was procured by false representation or was issued by mistake.

Upon revocation of any final approval or permit, all land disturbing activities authorized by that approval or permit shall cease until and unless a permit or approval is reissued, provided that all remedial or reclamation work shall proceed as directed by MSD.

D. TABLE 159-1: SUMMARY OF REVIEW & PLAN REQUIREMENTS

Table 159-1 summarizes the review and plan requirements by type of land disturbing activity and can be found in Appendix A to this Ordinance.

E. PLAN PREPARATION & CONTENT

1. Concept EPSC Plans.

- (a) Applicability. A concept EPSC plan, submitted by a Qualified Plan Preparer, shall be required for all land use applications subject to a Type I review procedure.
- (b) Contents. The concept EPSC plan shall contain the information and data as set forth in the MSD Design Manual, Standard Specifications and Standard Drawings, including a narrative description of phasing, sequencing, or other accommodations, if applicable.

2. Detailed EPSC Plans.

- (a) Applicability. A detailed EPSC plan shall be required for all land disturbing activities subject to a Type I or Type II review procedure. For a land disturbing activity subject to a Type I review, the detailed EPSC plan shall be required subsequent to the preliminary or development plan approval and prior to the commencement of construction or clearing and grading activity.
- (b) Contents.
 - (i) A detailed EPSC plan shall contain the information and data as set forth in the MSD Design Manual, Standard Specifications and Standard Drawings,
- (c) Plan Preparers.
 - (i) Detailed EPSC plans for Land Disturbing Activities Subject to Type I Review. A detailed EPSC plan subject to Type I review shall be prepared and certified by a Qualified Plan Preparer. In addition, MSD may require consultation with geologists, hydrologists, soil scientists, and other professionals, as MSD deems appropriate.
 - (ii) Detailed EPSC plans for Land Disturbing Activities Subject to Type II Review. Unless determined otherwise by MSD, a detailed EPSC plan subject to Type II review shall be prepared and certified by a Qualified Plan Preparer. Such determination will be based upon the amount of site disturbed, the type of disturbance and the proximity to drainageways.

F. TYPE I REVIEW PROCEDURE—ISSUANCE OF SITE DISTURBANCE PERMIT

1. Applicability.

- (a) Type I review shall be required if a land disturbing activity under this Ordinance is proposed as part of an activity or development subject to land use approval by the Louisville and Jefferson County Planning Commission, TRC, LD&T, Board Of Zoning Adjustment or legislative body. Such activities include, but are not limited to:
 - (i) Standard and innovative subdivisions, excluding minor plats and record plats;
 - (ii) Developments requiring a general or detailed development plan under the Development Code;
 - (iii) Conditional uses under the zoning provisions of the Development Code; and
 - (iv) Developments requiring a rezoning.

2. Concept EPSC Plan Submittal and Approval.

- (a) Concept EPSC plan Submittal. The Permittee shall submit a concept EPSC plan, when required, to the DPDS as part of the application for the land use or development approval.
- (b) Preliminary Review and Approval. The concept EPSC plan shall be forwarded to MSD and also distributed to interested agencies for their review and comment as part of the development

application approval process. Taking into consideration interested agency and public comments, MSD shall review and take final action on the concept EPSC plan, either approving, approving with conditions, or denying the concept EPSC plan.

- (c) Pre-Construction Site Meetings-Determination. As part of the concept EPSC plan approval, MSD may require that a pre-construction site meeting occur for purposes of enforcing and administering the provisions of this Ordinance in accordance with Section 159.02.F.4. below.
3. Detailed EPSC Plan Submittal.
 - (a) Detailed EPSC plan Submittal. Prior to the commencement of any land disturbing activity in anticipation of development or construction, a detailed EPSC plan shall be submitted to MSD concurrent with any required construction plans or building permit applications.
 - (b) Referral to DPDS and Public Works. The detailed EPSC plan, as part of the submitted construction plans, may be referred to DPDS and the appropriate Department of Public Works for review and comment. Such review shall be primarily in regard to the detailed EPSC plan's potential conflicts with other land development and land use standards and policies and conformance with applicable performance standards.
4. Pre-Construction Site Visits and Meetings.
 - (a) Purposes. The purposes of a pre-construction site meeting are to:
 - (i) Correct any inadequacies in the EPSC plan that are identified during the visit and meeting; and
 - (ii) Ensure that the Permittee, particularly the on-site contractor representative, understands the EPSC plan, inspection, maintenance, and record-keeping requirements.
 - (iii) In addition, MSD inspectors and other involved personnel should inspect and note existing natural conditions adjacent to and downstream of the controls prior to construction, so that any changes or degradation due to inadequate control measures can be more easily identified during future inspections.
 - (b) Applicability/Timing.
 - (i) If required as a condition of concept EPSC plan approval, a pre-construction site meeting shall be conducted prior to MSD final action on the detailed EPSC plan.
 - (ii) In all other cases, MSD, in consultation with the other reviewing agencies, may require a pre-construction site meeting prior to MSD final action on the detailed EPSC plan, or may require a pre-construction site meeting as a condition of detailed EPSC plan approval and postpone such visit until the notice of construction is received.
 - (c) Participants in the Pre-Construction Site Meeting. The following persons may participate in a pre-construction site meeting:
 - (i) Appropriate MSD personnel and, if warranted, representatives from DPDS, Public Works, or any other relevant review agencies; and
 - (ii) The Permittee, the project designer or engineer, the CCR if applicable, and, if available, the contractor (foreman or similar person).
5. MSD Final Action on the Detailed EPSC plan and Issuance of Site Disturbance Permit.
 - (a) MSD Final Action—General Provisions. MSD shall consider any comments and shall then take final action on the detailed EPSC plan, either approving, approving with conditions, or denying the detailed EPSC plan.
 - (b) Minor/No Revisions to the Detailed EPSC plan-Site Disturbance Permit Issuance. After review of the detailed EPSC plan and the pre-construction site meeting (if applicable), if no revisions to the plan or only minor revisions or field adjustments to the plan are necessary for approval, MSD shall take the following actions:
 - (i) MSD shall approve or conditionally approve the detailed EPSC plan, and
 - (ii) If all other site disturbance related approvals required under federal, state or local law or regulation have been received, MSD shall grant a site disturbance permit to the Permittee. At MSD's discretion, the site disturbance permit may be issued prior to final approval of the remainder of any submitted construction plans considering such factors as weather and optimum construction scheduling.
 - (c) Significant Revisions to the Detailed EPSC plan. If MSD and interested agency review of the detailed EPSC plan, other construction plans for development, and/or the pre-construction site meeting reveals the need for significant revisions to the detailed EPSC plan, MSD approval shall not be granted. Instead, MSD shall allow the Permittee a reasonable opportunity to revise the plan and re-submit the plan for re-review and final action by MSD. If MSD thereafter approves or conditionally approves the revised plan, MSD shall grant a site disturbance permit to the Permittee. At MSD's discretion, the site disturbance permit may be issued prior to final approval of the remainder of any submitted construction plans considering such factors as weather and optimum construction scheduling.

6. Effect of Detailed EPSC plan Approval/Site Disturbance Permit Issuance.
 - (a) Permitted Activities. Upon issuance of the site disturbance permit, site clearing and grading activities in anticipation of construction may commence on the site only after required EPSC measures are installed and appropriate notice is given pursuant to Section 159.02.F.7 below. No work/building permit shall be issued or requested until a site disturbance permit is granted.
 - (b) Automatic Lapse for Inactivity. If the Permittee does not commence land disturbing, construction or development activity according to the provisions and time frame established or approved in the underlying land use approval, then the approval of the detailed EPSC plan and the site disturbance permit shall automatically lapse and become null and void.
 7. Notification of Construction. Upon receiving detailed plan approval and a site disturbance permit, the permittees for land disturbing activities subject to these Type I review and site disturbance permit requirements shall file a notice of construction with MSD no later than 3 working days prior to construction activity initiation or related (non-exempt) land disturbing activity on a site, whichever occurs first. Prior notice of construction allows MSD to conduct, in a timely manner, any required pre-construction site meetings and to schedule inspections during construction, as necessary. Violation of this provision may result in immediate issuance of a Notice of Violation or a Stop Work Order under Section 159.05 of this Ordinance.
 8. Completion of Construction & Final Inspection Request.
 - (a) Certification of Completion. Upon completion of site construction and final stabilization, the Permittee shall submit a letter of completion to MSD certifying that construction, including final stabilization, is complete and in accordance with all approved EPSC plans. Temporary EPSC measures may still be in place at the time of certification of completion, depending on the season, provided that adequate surety is given pursuant to Section 159.04.B. below for the maintenance and ultimate removal of such temporary controls at a later date.
 - (b) Permit Termination.
 - (i) If at final inspection the site is in compliance with the approved EPSC plan, including final stabilization or adequate surety pursuant to Section 159.04.B, the site disturbance permit shall be terminated.
 - (ii) If at final inspection the site is not in compliance with the approved EPSC plans or this Ordinance, the site disturbance permit shall not be terminated, related performance assurances shall not be released, and the Permittee shall not be permitted to request a certificate of occupancy for the development.
- G. TYPE II REVIEW PROCEDURE—ISSUANCE OF SITE DISTURBANCE PERMIT
1. Applicability.
 - (a) Requires Building Permit Only (No Land Use Approval¹). Type II review shall be applicable to all land disturbing activities subject to this Ordinance that are associated with the construction of a specific development proposal that does not require land use approval under the Development Code. Type II review shall also be applicable to earth excavation, structure demolition, site clearing, or filling of land (including excavations and earth filling which may be performed without a conditional use permit pursuant to Section 9.6 of the Development Code). For example, a development proposal that is consistent with applicable zoning and that only needs a building permit to proceed to construction shall be subject to a Type II review for purposes of this Ordinance.
 2. Detailed EPSC Plan Submittal and Approval.
 - (a) Detailed EPSC plan Submittal. Prior to the commencement of any land disturbing activity in anticipation of development or construction, a detailed EPSC plan shall be submitted to MSD concurrent with required construction plans or building permit application.
 - (b) Pre-Construction Site Meeting. Following detailed EPSC plan submittal, MSD, in consultation with the reviewing agencies, may require a pre-construction site meeting prior to taking final action on the detailed EPSC plan. Alternately, MSD may require a pre-construction site meeting as a condition of detailed EPSC plan approval and postpone such meeting until the notice of construction is received pursuant to Section 159.02.G.4 below. Participants in the pre-construction site meeting shall be as set forth in Section 159.02.F.4.(c) above.
 - (c) MSD Final Action—General Provisions. MSD shall consider any comments from the public and interested review agencies and shall then take final action on the detailed EPSC plan, either approving, approving with conditions, or denying the detailed EPSC plan.

- (d) Minor/No Revisions to the Detailed EPSC plan-Site Disturbance Permit Issuance. After review of the detailed EPSC plan and the pre-construction site meeting (if applicable), if no revisions to the plan or only minor revisions or field adjustments to the plan are necessary for approval, MSD shall take the following actions:
 - (i) MSD shall approve or conditionally approve the detailed EPSC plan, and
 - (ii) If all other site disturbance related approvals required under federal, state or local law or regulation have been received, MSD shall grant a site disturbance permit to the Permittee. At MSD's discretion, the site disturbance permit may be issued prior to final approval of the remainder of any submitted construction plans considering such factors as weather and optimum construction scheduling.
3. Significant Revisions to the Detailed EPSC plan. If MSD and interested agency review of the detailed EPSC plan, other construction plans for development, and/or the pre-construction site meeting reveal the need for significant revisions to the detailed EPSC plan, MSD approval shall not be granted. Instead, MSD shall allow the Permittee a reasonable opportunity to revise the plan and re-submit the plan for re-review and final action by MSD. If MSD approves or conditionally approves the revised plan according to provisions of this section, MSD shall grant a site disturbance permit to the Permittee. At MSD's discretion, the site disturbance permit may be issued prior to final approval of the remainder of any submitted construction plans considering such factors as weather and optimum construction scheduling.
4. Effect of Detailed EPSC plan Approval/Site Disturbance Permit Issuance.
 - (a) Permitted Activities. Upon issuance of the site disturbance permit, site clearing and grading activities in anticipation of construction may commence on the site only after all required EPSCs are installed and appropriate notice is given pursuant to Section 159.02.G.4 below. No work/building permit shall be issued or requested until site disturbance permit approval is granted.
 - (b) Automatic Lapse for Inactivity. If the Permittee does not commence land disturbing activity or construction within one (1) year of MSD's approval of the detailed EPSC plan, or within the approved time frame for any related building permit, whichever occurs first, then the approval of the detailed EPSC plan and the site disturbance permit shall automatically lapse and become null and void.
5. Notification of Construction. Upon receiving detailed plan approval and a site disturbance permit, the permittees for land disturbing activities subject to these Type II review and site disturbance permit requirements shall file a notice of construction with MSD no later than 3 working days prior to construction activity initiation or related (non-exempt) land disturbing activity on a site, whichever occurs first. Prior notice of construction allows MSD to conduct in a timely manner any required pre-construction site meetings pursuant to Section 159.02.G.2. above, and to schedule inspections during construction, as necessary. Violation of this provision may result in immediate issuance of a Notice of Violation or a Stop Work Order under Section 159.05 of this Ordinance.
6. Completion of Construction & Final Inspection Request. The provisions regarding notification of completion of construction, final inspection, and permit termination set forth in Section 159.02.F.8. above shall apply.

H. GENERAL PERMITS

1. Purpose and Intent. General permits are intended to streamline the application of this Ordinance to land disturbing activities undertaken by specific public or governmental entities, or utilities which activities typically are repetitive and small-scale. General permits are also intended to simplify application of this Ordinance to land disturbing activities undertaken on individual residential lots within subdivision developments already subject to an approved detailed EPSC plan under this Ordinance.
2. Authorization.
 - (a) MSD, in consultation with the DPDS and the City of Louisville, shall have the authority to negotiate the terms and conditions of all general permits authorized by this section.
 - (b) When applicable, a general permit shall incorporate the terms and agreement reached in any Memorandum of Understanding between MSD and individual state agencies or other subdivisions of the Commonwealth of Kentucky.
 - (c) Notwithstanding the permitted scope of general permits as set forth in Section 159.02.H.3. below, a general permit may include provisions that allow MSD to specify review and approval processes for land disturbing activities undertaken by a general permittee otherwise subject to the terms and conditions of this ordinance.
 - (d) The MSD Chief Engineer shall have authority to review, amend and approve the terms and conditions of general permits with such approvals or amendments being effective following approval, or at such time specified, by the Chief Engineer.
3. Scope of Authorized General Permits.
 - (a) All land disturbing activities covered by an authorized General Permit shall proceed subject to the specific terms and conditions of the General Permit, which terms and conditions shall

supersede and control over the administrative and review requirements set forth in this Section 159.02, the EPSC standards and criteria set forth in Section 159.03 below, and the maintenance and performance requirements set forth in Section 159.04 below.

Notwithstanding this provision, until the specific terms and conditions of the General Permit are approved by the MSD Chief Engineer, the EPSC standards and criteria, the administrative and review requirements, and the maintenance and performance requirements set forth in this Ordinance shall apply to the subject land disturbing activity.

- (b) Unless specifically addressed in the General Permit, all other provisions of this ordinance not addressed in Section 159.02.H.3(a) above, including specifically the enforcement and penalties provisions set forth in Section 159.05.F. and Section 159.05.H. of this Ordinance shall apply to all land disturbing activities subject to a General Permit.

4. Land Disturbing Activities Covered by General Permits.

- (a) Land Disturbing Activities Undertaken by Public Utilities. General permits shall be applicable to repetitive land disturbing activities undertaken by utilities, and the private contractors hired by the utility to undertake such work. Such activities may include:

- (i) Land disturbing activities associated with routine maintenance and/or repair of water, electric, gas, or communications lines;
- (ii) Land disturbing activities associated with the placement of underground lines for the distribution or transmission of water, electric energy, gas, or communications services;
- (iii) Land disturbing activities associated with placement of poles for overhead distribution or transmission of electric energy or of communications services;
- (iv) Land disturbing activities associated with small trench work and service hook-ups to individual residences and buildings.

The general permit shall contain, among other things, standard EPSC practices for utilities' land disturbing activities, which should include, but not be limited to, provisions that address:

1. Protection of stockpiled areas;
2. Protection along trenches (including perimeter controls during line installation and interior controls after backfilling);
3. Phasing and scheduling;
4. Stream crossing details; and
5. Final stabilization provisions.

The general permit may have one set of EPSC provisions geared to utility installations connected with private development activity such as subdivisions, and a second set of provisions geared to a utility's general maintenance/repair activities or its own initiated construction projects.

- (b) Single-Lot Residential Construction or Demolition. A General Permit shall be applicable to all land disturbing activities associated with the construction or demolition of residential principal and accessory structures on individual lots. The General Permit shall allow such construction to proceed, subject to the following:

- (i) Exceptions. The following single-lot residential construction shall be excluded from the terms of this General Permit, and shall instead be subject to an individual review by MSD.
 - (1) Individual residential building lots of record that were identified ("red flagged") on the approved subdivision preliminary plan or record plat for additional restrictions or scrutiny prior to construction.
- (ii) Jefferson County, in consultation with MSD and the City of Louisville, shall adopt administrative rules and procedures to implement this General Permit, including but not limited to instituting a means to identify qualifying general permittees at the time of building permit issuance.
- (iii) The General Permit shall contain standard EPSC practices for the covered land disturbing activities, which should include, but not be limited to, provisions that address:
 - Perimeter controls;
 - Temporary construction access;
 - Protection and proper placement of stockpiled materials;
 - Protection around existing drainage structures;
 - Prevention of tracking soil, mud and debris onto public rights-of-ways;
 - Maintenance of EPSC measures;
 - Final stabilization; and
 - Removal of EPSC measures following final stabilization
 - Inspection and record-keeping requirements

I. APPEALS FROM ACTION ON DETAILED EPSC PLANS

1. Any person or entity claiming to be aggrieved by a final action of MSD on a detailed EPSC plan may appeal such action to the MSD Board. Such appeals shall be taken within thirty (30) days of the final action taken by MSD in Section 159.02.F.5 for type I reviews, or within thirty (30) days of the final action taken by MSD in Section 159.02.G.2.(e) for Type II reviews, by filing with the secretary of the MSD Board a notice of appeal specifying the grounds thereof. Any final action not appealed within thirty (30) days of such action shall be considered final and unappealable.
2. Appeals from action of the MSD Board on detailed EPSC plans shall be taken to a Kentucky court of competent jurisdiction pursuant to applicable Kentucky statutes.

SECTION 159.03 REVIEW STANDARDS & CRITERIA

A. EPSC STANDARDS — GENERAL

MSD shall review all EPSC plans for compliance with the following general standards and review criteria:

1. Overall Design Goal. A design removal efficiency goal of 80% for total suspended solids from land disturbing activities shall be applied to the design, review, and approval of EPSC plans. The following structural and non-structural standards are to be utilized to achieve this goal.
 - (a) Compliance with MSD Design Manual, Standard Specifications and Standard Drawings. Except where innovative or alternative management practices are approved pursuant to Section 159.03.A.2. below, all EPSC measures shall be designed and installed in accordance with the specifications contained in the MSD Design Manual, Standard Specifications and Standard Drawings, as it may be revised from time to time, which is hereby incorporated by reference into this Ordinance.
 - (b) Non-structural Site Management Practices. Non-structural site management practices to prevent erosion and minimize sediment discharge shall be considered in MSD's evaluation of Section 159.03.A.1. above. Such practices may include the following standards:
 - i) Minimize site disturbance to preserve and maintain existing vegetative cover;
 - ii) Limit the number of temporary access points to the site for land disturbing activities;
 - iii) Phase and sequence construction activities;
 - iv) Locate temporary and permanent soil disposal areas, haul roads and construction staging areas to minimize erosion, sediment transport and disturbance to existing vegetation.

Where attainment of this design removal efficiency goal through the use of structural and non-structural measures is not practicable, the permittee shall submit written justification to MSD for review and approval.

2. Alternative Management Practices. To encourage the development and testing of alternative EPSC measures, alternative management practices that are not included in the MSD Design Manual, Standard Specifications and Standard Drawings may be allowed upon review and approval of MSD.
 - (a) A Permittee seeking to use an alternative management practice shall concurrently submit substantial evidence that the proposed measure will perform at least equivalent to a currently approved control contained in the MSD Design Manual, Standard Specifications and Standard Drawings. Evidence may include, but is not limited to, peer-review by a panel of registered professional engineers and research results as reported in professional journals or other literature.
 - (b) If MSD finds the control or practice has failed or is inadequate to contain sediment onsite, the Permittee shall remove and replace it with a control approved by MSD and found in the MSD Design Manual, Standard Specifications and Standard Drawings.

B. EPSC STANDARDS — SPECIFIC

MSD shall review all EPSC plans for compliance with the following specific standards and review criteria:

1. Sediment Tracking Control. Stabilized construction entrances shall be located and utilized at all points of ingress/egress on a construction site. The transfer of soil, mud and dust onto public rights-of-ways shall be minimized.
2. Construction Dewatering Operations. Whenever construction dewatering operations are required on a site, they shall be conducted according to the specifications set forth in the MSD Design Manual, Standard Specifications and Standard Drawings.
3. Crossings of waterways during construction shall be minimized and approved by MSD. Encroachment into stream buffers, riparian areas and wetlands shall be avoided.
4. Topsoil shall be stockpiled and preserved from erosion or dispersal both during and after site grading operations.
5. Temporary Stabilization Measures. Where construction or land disturbance activity will or has temporarily ceased on any portion of a site, temporary site stabilization measures shall be required as soon as practicable, but no later than 14 calendar days after the activity has ceased. Permanent or temporary stabilization shall be completed within:
 - (a) 14 calendar days for the surface of all perimeter dikes, ditches, swales, perimeter slopes, and all slopes greater than 3 horizontal to 1 vertical (3:1);
 - (b) 14 calendar days as to all other disturbed or graded areas on the project site.

The requirements of Section 159.03.B.5(a) and 159.03.B.5(b) do not apply to those areas which are shown on the plan and currently being used for material storage or for those areas on which construction activities are currently being performed or to prepared structural subgrades, provided that structural EPSC measures remain in place.

6. Final Stabilization. Final Stabilization of the site shall be required within 14 calendar days of construction completion.
7. Temporary Structural Controls installed during construction shall be designed to accomplish maximum stabilization and control of erosion and sedimentation, and shall be installed, maintained, and removed according to the specifications set forth in the MSD Design Manual, Standard Specifications and Standard Drawings. All temporary structural controls shall function as designed when controlling the peak runoff resulting from the storm event identified in the MSD Design Manual, Standard Specifications and Standard Drawings.
8. All Permanent Structural Controls, including drainage facilities such as channels, storm sewer inlets, and detention basins, shall be designed according to the standards set forth in the MSD Design Manual, Standard Specifications and Standard Drawings.

SECTION 159.04 MAINTENANCE & PERFORMANCE REQUIREMENTS

A. MAINTENANCE AND DAMAGE REMEDIATION

1. Maintenance During Construction:

- (a) The Permittee, or his/her designee, shall be required to conduct continuing inspections of all EPSC measures, and direct the appropriate persons to make any repairs or modifications necessary, within 48 hours of the initial discovery of a control failure or violation, unless extenuating circumstances such as weather or complexity of repairs or modifications justify a longer time frame. At a minimum, such inspections shall occur every seven (7) calendar days and within 24 hours after each storm event that produces 0.5 inches or more of precipitation.
- (b) In addition, silt accumulation upstream of temporary controls shall be removed when the control reaches the percentage of storage capacity established for the maintenance of that particular type of control in the MSD Design Manual, Standard Specifications and Standard Drawings.
- (c) A copy of the EPSC plan and records of all inspections, repairs, and modifications shall be available on-site throughout the duration of the construction or land-disturbing activity. All records of inspection shall be in a form specified by MSD and shall include the date and time of inspection, and the name and signature of the inspector as defined in Section 159.04 A.I.(a) above. These records shall be made available to agency inspectors upon request.
- (d) If the Permittee chooses to use a CCR for site inspections and monitoring of all land disturbing activities, the Permittee shall sign a statement giving the CCR full authority to inspect the site and to require necessary measures to maintain compliance. The name, address, and phone number of the CCR shall be noted on the cover sheet of the submitted detailed EPSC plan, but in no instance later than the time notice of construction is filed with MSD. If requested, the CCR shall submit signed and dated weekly inspection logs to the appropriate inspection agency. Copies of such logs shall be maintained on site and shall be signed and dated by the CCR.

2. Post-Construction Maintenance. Following release or acceptance of a project (and termination of the site disturbance permit), the property owner shall be responsible for maintaining the project site in a manner to prevent soil erosion and sedimentation in violation of this Ordinance.

3. Damage Remediation. In the event of adverse impacts or off-site degradation resulting from improper controls or practice in violation of this Ordinance, MSD shall have the authority to take the following action:

- (a) Determine the extent of damage resulting from noncompliance with the plan or failure to maintain the practices required by the plan;
- (b) Determine the impact and severity of the resulting adverse impacts or off-site degradation;
- (c) Require and approve an agreement with the Permittee for correction and clean-up of the existing damage and an agreement for prevention of future damage.
- (d) Cost incurred by MSD and other agencies, as a result of having to hire outside expertise, to determine the extent, impact and severity of damage and in remediating any such damage shall be collected from the Permittee.

Failure of the Permittee to implement the agreement according to its terms shall constitute a violation of this Ordinance, and subject the Permittee to all applicable enforcement actions and penalties.

B. PERFORMANCE ASSURANCES

1. The Permittee shall be responsible for the installation, good repair, maintenance, proper functioning and ultimate removal of all temporary and permanent EPSC measures.

2. Fiscal Surety Required. For all land disturbing activities subject to a Type I or Type II review under this Ordinance, the Permittee may be required to post a fiscal surety, consisting of a performance bond or other instrument, acceptable to and approved by MSD. When a fiscal surety is required, the following conditions will apply.

(a) Timing of Surety. The surety shall be posted no later than the issuance of a site disturbance permit or, with MSD approval, prior to issuance of a certificate of occupancy, as applicable.

(b) Combination with Other Appropriate Bonds. Whenever feasible, the fiscal surety for EPSC required by this section may be combined with and posted as part of the sanitary sewer lateral extension bond or subdivision performance bond required for all subdivisions approved pursuant to the Development Code.

- (c) Amount of Surety. For activities subject to Type I review, the amount of the surety for EPSC shall be the cost of the approved EPSC measures to be installed on the site and any prescribed site revegetation or restoration measures, including labor costs. MSD shall have the discretion to set alternate amounts for or to waive a surety for activities subject to Type II review that are commensurate with the complexity or size of the project. The final amount of the surety shall be determined by MSD and shall be in addition to any other surety required as part of subdivision or development approval.
- (d) Use of Surety. If at any time following the period allowed to the Permittee to complete his/her obligations under this Ordinance, MSD finds that:
- (i) The required temporary or permanent improvements or control measures have not been installed or maintained properly,
 - (ii) The required temporary or permanent improvements are not in good repair or functioning properly, or
 - (iii) Required revegetation and restoration of a site have not been completed as required, then
- In addition to other enforcement remedies, MSD may declare the Permittee to be in default if it does not appear that the improvements or controls will be completed or repaired within a reasonable time considering the potential for harm, inconvenience, nuisance or annoyance to others including nearby property owners.
- Upon declaration of default, MSD shall demand such amounts from the surety as required to remedy the default. In the event that amounts available from the surety are sufficient to cover the costs of remedying the default, such surety shall be collected and used in full in such proportion as the MSD determines to be just and equitable based upon apparent responsibility for the default. Anyone claiming to be aggrieved by such determination shall have as his/her exclusive remedy a cause of action for contribution or indemnity against the parties responsible for the default. The determination of MSD shall not be used as evidence in support of or against responsibility in such cause of action, and MSD shall not be made a party to such action.
- (f) Release of Surety. Application for release of a fiscal surety required by this Ordinance may be made by filing a certificate with MSD bearing a notice that false statements made therein are punishable. MSD may make an inspection of the property and shall grant a release of the surety upon determining that:
- (i) Site construction is finished,
 - (ii) Final stabilization has been completed,
 - (iii) The site disturbance permit has been terminated,
 - (iv) The required improvements and controls are properly installed, are in good repair, and are functioning properly,
 - (v) Temporary controls have been removed, and
 - (vi) There is no reason to believe that construction on the lot has or will cause the malfunctioning of installed improvements on other property.

Imposition of Lien. In addition to or as an alternative to use of any fiscal surety, MSD shall have the option of placing a lien on any property on which the Permittee has failed to properly install, keep in good repair, or maintain the proper functioning of all required temporary and permanent EPSC measures or has failed to complete required revegetation or restoration measures. The amount of the lien may cover necessary costs of ensuring compliance with applicable provisions of this ordinance, including but not limited to any necessary remedial and restoration measures to alleviate the adverse impacts or off-site degradation, and all associated administrative costs.

SECTION 159.05 ADMINISTRATION & ENFORCEMENT

A. MODIFICATIONS

1. Modifications to Review Standards and Criteria. The MSD Chief Engineer, in consultation with other applicable reviewing agencies, shall have the authority to make modifications to applicable EPSC standards/design requirements and exemptions set forth in this ordinance or the MSD Design Manual, Standard Specifications and Standard Drawings to provide flexibility to deal with the unique characteristics of a site. Such modifications may be granted only upon a finding by the MSD Chief Engineer that the standards set forth in this subsection have been met.
2. Modifications to Controls. Changes to the location and placement of temporary non-structural or structural controls may be approved by the MSD Chief Engineer during construction plan review or, once construction has commenced, may be approved in the field by an inspector without the need for additional, formal review if the change is in accord with the MSD Design Manual, Standard Specifications and Standard Drawings. However, changes to the location or placement of permanent structural controls shall necessitate formal review and approval by MSD.
3. Review Standards for Modifications. No modification shall be approved by MSD unless all of the following standards have been met:
 - (a) The requested modification is consistent with the purposes of this Ordinance and will not have adverse effects on the effectiveness to the plan to adequately control erosion and sedimentation as required by this Ordinance;
 - (b) The requested modification eliminates an unnecessary burden on the Permittee and is required to address some unusual aspect of the site or proposed development that is not shared by landowners in general; and
 - (c) Any potential adverse impacts resulting from the modification will be mitigated.

B. FEES

A fee, charges, and expenses schedule may be established by MSD for the administration and management of the EPSC program created by this Ordinance, including fees to cover the costs of processing applications and variances, and conducting field inspections. No application for action required by this Ordinance shall be accepted until such fees are paid in full.

C. INSPECTIONS

1. Inspection of land disturbing activities subject to this Ordinance shall be the primary responsibility of MSD. Assistance may be provided by zoning enforcement and environmental health officers, Jefferson County Building Code Enforcement Officers, the City of Louisville Department of Inspection, Permits & Licenses, or duly authorized inspectors from any other municipal enforcement agency as appropriate, to enforce this ordinance against MSD.
2. To ensure compliance with approved plans and to examine field practices to determine if control measures are adequate to advance the purposes of this Ordinance, authorized enforcement agencies and inspectors shall have the power to periodically inspect any land disturbing activity upon presentation of appropriate identification and to review records of all inspections, repairs and modifications made by the Permittee.
3. Notice of such right of inspection shall be included in the site disturbance permit or other applicable permit, and such right shall include the right to inspect with or without notice and all such inspections shall be at the discretion of the inspecting authority.

D. ENFORCEMENT

1. Civil Offense. The violation of this Ordinance, including the violation of any plan approved or permit issued under this Ordinance, shall constitute a civil offense which may subject the violator to a civil fine and/or other remedial orders in accordance with this section.
2. Complaints. MSD shall receive complaints, perform inspections and enforcement or route the complaint to the appropriate responsible enforcement agency.

3. Enforcement Procedures.

(a) Negotiated Compliance.

(i) Applicability. It is the intent of this Ordinance that negotiated compliance be pursued and secured whenever practicable and effective prior to alternative enforcement measures being invoked. However, where clearing or other land disturbing activity has proceeded without an approved plan, issuance of a site disturbance permit and proper Notice of Construction under this Ordinance, or where a violation is causing, or has the imminent ability to cause, adverse impacts or off-site degradation, the inspector shall immediately issue a notice of violation and stop work order. When clearing or other land disturbing activity has proceeded without proper Notice of Construction only, the inspector shall be authorized to immediately issue a notice of violation and, as necessary, a stop work order. Failure of a properly approved, installed and maintained plan to contain sediment on-site shall not alone constitute off-site degradation or a violation of this Ordinance provided remedy of such is performed by the contractor during the course of same day activities.

(ii) When the inspector, based on personal observation or investigations, has reasonable cause to believe that a person has committed a violation of this Ordinance or any plan approved or permit granted hereunder, the inspector shall undertake a negotiated compliance process as set forth below unless circumstances dictate alternative compliance measures. This negotiated compliance process shall consist of:

- (1) A warning to the on-site Permittee of any deficiencies;
- (2) An explanation of necessary corrective action;
- (3) Specification of a reasonable time frame within which such corrective action shall occur (no more than 48 hours, unless extenuating circumstances such as weather or complexity of repairs or modifications justify a longer time frame).

(iii) Documentation. The inspector shall document the negotiated compliance process with a written notice to the Permittee setting forth the identified deficiency, the request for corrective action, and the time frame for compliance. The documentation process shall include:

A copy of the written notice shall be placed in the appropriate agency file.

A copy shall be given to the owner, contractor's representative, or responsible

person on site. (3) In the event that no authorized person is on-site, and that the inspector is not successful in contacting the permittee(s), a copy of the notice to comply shall be sent certified mail to the permittee(s).

(iv) Compliance Review. At the end of the time period specified above, an inspector shall perform a follow-up site inspection to determine whether compliance has been achieved. Depending on that determination, the following actions may occur:

- (1) Corrective Action Performed. If the identified deficiencies have been corrected, the inspector shall issue an inspection report stating that fact and the site shall be returned to a normal construction review status.
- (2) Corrective Action Not Performed. If the identified deficiencies have not been corrected further actions may be initiated as outlined in Section 159.05.D.3.(b) below.

(b) Notice of Violation/Stop Work Order. If the negotiated compliance process fails to produce necessary corrective action, the inspector shall be authorized to issue a notice of violation (NOV). A stop-work order shall be issued in conjunction with the NOV when the violation is causing, or has the imminent ability to cause, adverse impacts or off-site degradation, or in other circumstances as deemed necessary by the inspector,

(i) Form of NOV and Issuance.

Issuance of a NOV initiates enforcement proceedings for violations of this Ordinance. Where the inspector, based upon personal observation or investigation has reasonable cause to believe that a person has committed a violation of the Ordinance, and the inspector has complied with Section 159.05.D.3.(a), the inspector is authorized to issue a NOV to the Permittee and Co-permittees.

The NOV shall be in a form prescribed by MSD and shall contain:

- (1.) The date and time of issuance;
- (2.) The name and address of the Permittee to whom the NOV is issued;
- (3.) The date and time the violation was committed;
- (4.) The facts constituting the violation;
- (5.) The section of the Ordinance violated;
- (6.) The name of the inspector;

- (7.) The civil fine that will be imposed for the violation;
- (8.) A statement informing the Permittee to whom the NOV is issued of the right to appeal the NOV or to contest the proposed civil penalty.
- (ii) Stop Work Order. Issuance of a stop work order shall result in a suspension of the project development or site plan approval, and except for work related to remediation of the violation, no additional land disturbing activity shall occur and no additional grading or building permits shall be issued until the violation is resolved to the enforcement agency's satisfaction. Stop work orders shall specifically state the provisions of this Ordinance being violated.
- (iii) Service of NOV and Stop Work Order. Service of a NOV or Stop Work Order shall be by personal service to the on-site supervisory personnel at the site, by posting a copy of the NOV and any Stop Work Order at the site, and by certified mail to the Permittee.
- (iv) Compliance Notice. When compliance measures specified in the NOV are satisfactorily completed, the Permittee shall notify MSD. MSD shall re-inspect the site no later than the following work day after notification by the Permittee. Upon acceptance the inspector shall provide a written notice of compliance to the Permittee and place such letter in the appropriate agency file.
- (v) Appeal. When an NOV is issued, the person to whom the NOV is issued shall respond to the NOV within seven (7) days of the date the NOV is issued by either remedying the violation and paying the civil fine set forth in the NOV or requesting, in writing, a hearing before the EPSC Board to contest the NOV. If the person fails to respond to the NOV within seven (7) days, the person shall be deemed to have waived the right to a hearing to contest the NOV and the determination that a violation was committed shall be considered final. In this event, the EPSC Board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the NOV. Filing of an appeal does not stay the effect or the obligations of a stop work order or NOV unless otherwise ordered by the designated official hearing such appeal, based on a demonstration by the Permittee issued the NOV of a substantial likelihood of prevailing on the merits of the appeal, and the absence of adverse impact if the Order or NOV is stayed pending review.
- (vi) Nothing contained in this Ordinance shall prohibit the MSD from taking immediate action in the court of appropriate jurisdiction to remedy a violation of this Ordinance when there is reason to believe that the existence of the violation presents a serious threat to the public health, safety, and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible.
- (c) The EPSC Board shall hear all contested NOV's.
 - (i) If a person to whom the NOV is issued requests a hearing before the EPSC Board, the EPSC Board shall schedule the hearing within fourteen (14) days unless all parties mutually agree to a continuance.
 - (ii) Evidence against the person charged with the violation shall be presented; the person cited may be represented by counsel. The EPSC Board shall take all testimony under oath and may subpoena alleged violators, witnesses and evidence to its hearing.
 - (iii) Any person not appearing at a duly scheduled hearing shall be deemed to have waived the right to a hearing and the EPSC Board may enter its final decision.
 - (iv) The EPSC Board shall hear the evidence presented and based thereon shall render its decision and final order, which may uphold the NOV, dismiss it, order remedies and corrective action or a penalty or some combination thereof.
- 4. Repeated Violations. In cases in which the Permittee has a record of repeated Notices of Violations causing adverse impact or offsite degradation within a two (2) year period, MSD shall be authorized to undertake any or all of the following actions:
 - (a) To refuse to accept applications for any development or land disturbing activity or to process any such application of the Permittee;
 - (b) To revoke a General Permit as it applies to any development or land disturbing activity carried out by the Permittee; and

(c) To revoke the certification of any CCR who has been associated with serious or repeated violations of the provisions of this Ordinance.

5. Appeals from the EPSC Board. Appeals shall be taken to a Kentucky court of competent jurisdiction pursuant to applicable Kentucky statutes.

E. PENALTIES

Any person who violates this Ordinance, or any plan approved or permit granted hereunder, shall be subject to a fine of no more than Four Thousand Dollars (\$4,000) per violation and shall comply with such remedial orders as may be issued by the EPSC Board. Each act of violation and each day during which the violation exists after the period granted by Section 159.05D.(3)(a) and (b) to remedy the violation shall be deemed a separate offense.

F. EDUCATION AND TRAINING

1. Ori-Site Responsible Personnel Training. Within six (6) months of the effective date of this Ordinance, all on-site responsible personnel shall be required to hold a certificate of attendance from an MSD-sponsored or approved training course. This requirement applies to persons employed by homebuilders, contractors, utilities, or any other person in a position of operational control over the land disturbing activity. This training shall be valid for a period of three years or until the course content is significantly modified due to ordinance modification or additional state or federal requirements, whichever occurs first.

Further, the Permittee shall certify to MSD at the time of plan submittal that a person holding an attendance certificate shall be on the site during construction or development activity to such degree as to be in operational control over the land disturbing activity and provide continuing inspections in accordance with Section 159.04.A. This person may include but is not limited to a foreman, developer, construction manager, or property owner.

The name of this person shall be provided to MSD as soon as it is available, but no later than the time that notification of construction or disturbance is filed with MSD. MSD shall maintain a list of attendees to all training programs and provide confirmation of attendance.

2. Training and Certification.

(a) Agency Inspector Training and Certification. Within six (6) months of the effective date of this Ordinance, all agency inspectors shall be required to attend an MSD-sponsored or approved training course. Each inspector shall be required to achieve certification through this course to conduct site inspections, issue violations, negotiate on-site compliance, and refer violations for formal enforcement actions. This certification shall be valid for a period of three (3) years, upon which the inspector must be re-certified.

(b) Agency Plan Reviewer Training and Certification. Within six (6) months of the effective date of this Ordinance, all agency plan reviewers are required to attend an MSD-sponsored or approved training course. Each plan reviewer shall be required to achieve certification through this course to conduct plan reviews, pre-construction site meetings, and permit negotiations. This certification shall be valid for a period of three years, upon which the plan reviewer must be re-certified.

(c) Qualified Plan Preparer Training. Qualified plan preparers, including but not limited to professional engineers and landscape architects, shall be strongly encouraged to attend training sessions for plan reviewers and inspectors, as space is available. MSD may also, at its discretion, develop a separate course for qualified plan preparers. A fee may be established for this training based on the actual cost to develop and administer this course.

(a) The option of a CCR is offered to allow for self-monitoring of the EPSC plan implementation. Based on demand, MSD may sponsor or approve a training course to certify private individuals as CCRs. These certifications shall be valid for a period of not more than 3 years. MSD may extend this period; however, continuing education shall be required for maintenance of the CCR. At MSD's sole discretion, a fee may be established for this training based on the actual cost to develop and administer this course.

(b) MSD, in its discretion, may provide incentives for the use of a CCR.

3. Revocation of Certifications

Certifications may be revoked by MSD for repeated violations of the provisions of this Ordinance, activities that result in significant adverse impact or off-site degradation, or for willful disregard in implementing the intent of the certification programs. MSD shall appoint a hearing officer to hear

appeals of revocation actions. A third party may bring action for revocation of a certification. These actions shall be presented to the MSD hearing officer for decisions.

Any revocation action shall be supported by documentation as deemed appropriate by the hearing officer. The hearing officer may establish penalty amounts up to \$500.00 per occurrence depending on the nature of the offense. Revocation of certifications shall be for at least one (1) year. Re-certification shall be based on attending the training courses and paying all appropriate fees. Re-certification will only be allowed one (1) time in a 3-year period from the date of revocation.

Appendix A: Table 159-1

Type of Land Disturbing Activity	Type of Permit Required See Section 159.02.C.3.		Type of Review Procedures Required See Section 159.02.C.2.			Type of EPSC Plan Required See Section 159.02.C.4.	
	Site Disturbance Permit	General Permit	Type I	Type II	General Permit	Concept EPSC plan	Detailed EPSC plan
1. Requires Land Use Approval ¹	X		X			X	X
2. Requires Building Permit Only (Not Discretionary) ²	X			X			X
3. Undertaken by a Public Utility ³		X			X	N/A	N/A
4. Single-Lot Residential Construction in an Approved Subdivision ⁴		X			X	N/A	N/A
4b. Single-Lot Residential Construction on a "Red-Flagged" Lot ⁵	X			X			X (At MSD's Discretion)
5. Excavation, Site Clearing, or Filling of Land (No Building Permit Required)	X			X		X (Only if Type I Review Required)	X

¹ Includes all land disturbing activities associated with a specific development proposal subject to discretionary land use or development approvals (e.g., subdivisions, conditional uses, development plan review, etc.)

² Includes all land disturbing activities associated with a specific development proposal not subject to discretionary land use or development approvals (e.g., development requiring building permit approval only).

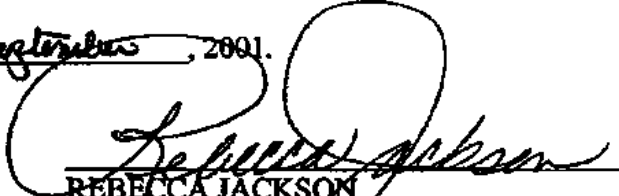
³ Includes land disturbing activities undertaken by a private contractor hired by a utility; includes utility-related land disturbing activities such as small trench work, service hook-ups to individual structures, general and emergency maintenance/repair work, and the like.

⁴ This category includes only construction of a residence, and/or accessory residential structures, on a single lot that is part of a subdivision subject to an EPSC plan approved pursuant to this Ordinance. Please see categories 4.A.-4.B. in the table for important variations on this general provision.

⁵ "Red flagging" refers to a notation on the approved subdivision plan that a particular individual lot shall be subject to additional restrictions or scrutiny prior to construction.

Section 3. This ordinance shall take effect upon passage.

Adopted this 25th day of September, 2001.


REBECCA JACKSON
Jefferson County Judge/Executive

Approved as to form and legality:

IRV MAZE

Jefferson County Attorney

Attest:

By: 
DEBORAH A. BILITSKI
Assistant County Attorney


SANDRA MOORE
Fiscal Court Clerk